RCW 84.04.150 "Computer software" and related terms. (1) "Computer software" is a set of directions or instructions that exist in the form of machine-readable or human-readable code, is recorded on physical or electronic medium, and directs the operation of a computer system or other machinery or equipment. "Computer software" includes the associated documentation that describes the code and its use, operation, and maintenance and typically is delivered with the code to the user. "Computer software" does not include databases.

A "database" is text, data, or other information that may be accessed or managed with the aid of computer software but that does not itself have the capacity to direct the operation of a computer system or other machinery or equipment.

(2) "Custom computer software" is computer software that is designed for a single person's or a small group of persons' specific needs. "Custom computer software" includes modifications to canned computer software and can be developed in-house by the user, by outside developers, or by both.

A group of four or more persons is presumed not to be a small group of persons for the purposes of this subsection unless each of the persons is affiliated through common control and ownership. The department may by rule provide a definition of small group and affiliates consistent with this subsection.

For purposes of this subsection, "person" has the meaning given in RCW 82.04.030.

(3) "Canned computer software," occasionally known as prewritten or standard software, is computer software that is designed for and distributed "as is" for multiple persons who can use it without modifying its code and that is not otherwise considered custom computer software.

(4) "Embedded software" is computer software that resides permanently on some internal memory device in a computer system or other machinery or equipment, that is not removable in the ordinary course of operation, and that is of a type necessary for the routine operation of the computer system or other machinery or equipment. "Embedded software" may be either canned or custom computer software.

(5) "Retained rights" are any and all rights, including intellectual property rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned or are held under contract or license by a computer software developer, author, inventor, publisher, licensor, sublicensor, or distributor.

(6) A "golden" or "master" copy of computer software is a copy of computer software from which a computer software developer, author, inventor, publisher, licensor, sublicensor, or distributor makes copies for sale or license. [1991 sp.s. c 29 § 2.]

Findings—Intent—1991 sp.s. c 29: "(1) The legislature finds that:

(a) Computer software is a class of personal property that is itself comprised of several different subclasses of personal property which can be distinguished by their use, development, distribution, and relationship to hardware, and includes custom software, canned software, and embedded software;

(b) Because different classes of software serve different needs, may be used by different taxpayers, and present different administrative burdens on both the state and the citizens of the state

of Washington, the different classes of software should be treated differently for tax purposes;

(c) Canned software should continue to be subject to property tax, but, because of its rapid obsolescence, should be subject to tax for only two years; and the taxable interest should reside with the end user;

(d) Canned software that has been modified should continue to be taxable on the canned portion of the software;

(e) Embedded software should continue to be taxed as part of the machinery or equipment of which it is a part;

(f) Custom software should be exempt from taxation, in part because of the difficulty in accurately and uniformly determining the value of such software;

(g) Retained rights in computer software should be exempt from the property tax in part because of the difficulty in accurately and uniformly determining the value of such software, the difficulty in determining the scope and situs of such rights, and the adverse economic consequences to the state of taxing such rights; and

(h) So-called "golden" or "master" copies of software should be exempt from property tax like business inventory.

(2) It is the intent of the legislature that:

(a) The voluntary compliance nature of the personal property tax system should be preserved and nothing in this act shall be construed to reduce the taxpayer's obligation to fully and accurately list all taxable computer software;

(b) Computer software should be listed and assessed for property taxes payable in 1991 and 1992 in the same manner and to the same extent as computer software was listed and assessed for taxes due in 1989;

(c) The definition of custom software, golden or master copies, and retained rights shall be liberally construed in accordance with the purposes of this act;

(d) This act shall provide fairness, equity, and uniformity in the property tax treatment of each class of computer software in the state of Washington; and

(e) No inference should be taken from this act regarding the application of the property tax to databases." [1991 sp.s. c 29 § 1.]

Severability—1991 sp.s. c 29: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 sp.s. c 29 § 8.]

Application—Taxes collected in 1993—1991 sp.s. c 29: "Sections 2 through 4 and 6 of this act apply to taxes levied for collection in 1993, and thereafter." [1991 sp.s. c 29 § 9.]