

2 HB 2681 - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED 3/3/92

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 82.32.050 and 1991 c 142 s 9 are each amended to read
8 as follows:

9 (1) If upon examination of any returns or from other information
10 obtained by the department it appears that a tax or penalty has been
11 paid less than that properly due, the department shall assess against
12 the taxpayer such additional amount found to be due and shall add
13 thereto interest at the rate of nine percent per annum from the last
14 day of the year in which the deficiency is incurred until the date of
15 payment for tax liabilities arising before January 1, 1992. For tax
16 liabilities arising after December 31, 1991, until the date of payment,
17 the rate of interest shall be variable and computed as provided in
18 subsection (2) of this section. The rate so computed shall be adjusted
19 on the first day of January of each year. The department shall notify
20 the taxpayer by mail of the additional amount and the same shall become
21 due and shall be paid within thirty days from the date of the notice,
22 or within such further time as the department may provide.

23 (2) For the purposes of this section, the rate of interest to be
24 charged to the taxpayer shall be an average of the federal short-term
25 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.
26 The rate shall be computed by taking an arithmetical average to the
27 nearest percentage point of the federal short-term rate, compounded
28 annually, for the months of January, April, July, and October of the

1 immediately preceding calendar year as published by the United States
2 secretary of the treasury.

3 (3) No assessment or correction of an assessment for additional
4 taxes, penalties, or interest due may be made by the department more
5 than four years after the close of the tax year, except (a) against a
6 taxpayer who has not registered as required by this chapter, (b) upon
7 a showing of fraud or of misrepresentation of a material fact by the
8 taxpayer, or (c) where a taxpayer has executed a written waiver of such
9 limitation. The execution of a written waiver shall also extend the
10 period for making a refund or credit as provided in RCW 82.32.060(2)."

11 "Sec. 2. RCW 82.32.060 and 1991 c 142 s 10 are each amended to
12 read as follows:

13 (1) If, upon receipt of an application by a taxpayer for a refund
14 or for an audit of the taxpayer's records, or upon an examination of
15 the returns or records of any taxpayer, it is determined by the
16 department that within the statutory period for assessment of taxes,
17 penalties, or interest prescribed by RCW 82.32.050 ((a)) any amount of
18 tax, penalty, or interest has been paid in excess of that properly due,
19 the excess amount paid within, or attributable to, such period shall be
20 credited to the taxpayer's account or shall be refunded to the
21 taxpayer, at the taxpayer's option. Except as provided in subsections
22 (2) and (3) of this section, no refund or credit shall be made for
23 taxes, penalties, or interest paid more than four years prior to the
24 beginning of the calendar year in which the refund application is made
25 or examination of records is completed.

26 (2) The execution of a written waiver under RCW 82.32.050 or
27 82.32.100 shall extend the time for making a refund or credit of any
28 taxes paid during, or attributable to, the years covered by the waiver
29 if, prior to the expiration of the waiver period, an application for

1 refund of such taxes is made by the taxpayer or the department
2 discovers a refund or credit is due.

3 (3) Notwithstanding the foregoing limitations there shall be
4 refunded or credited to taxpayers engaged in the performance of United
5 States government contracts or subcontracts the amount of any tax paid,
6 measured by that portion of the amounts received from the United
7 States, which the taxpayer is required by contract or applicable
8 federal statute to refund or credit to the United States, if claim for
9 such refund is filed by the taxpayer with the department within one
10 year of the date that the amount of the refund or credit due to the
11 United States is finally determined and filed within four years of the
12 date on which the tax was paid: PROVIDED, That no interest shall be
13 allowed on such refund.

14 (4) Any such refunds shall be made by means of vouchers approved by
15 the department and by the issuance of state warrants drawn upon and
16 payable from such funds as the legislature may provide. However,
17 taxpayers who are required to pay taxes by electronic funds transfer
18 under RCW 82.32.080 shall have any refunds paid by electronic funds
19 transfer.

20 (5) Any judgment for which a recovery is granted by any court of
21 competent jurisdiction, not appealed from, for tax, penalties, and
22 interest which were paid by the taxpayer, and costs, in a suit by any
23 taxpayer shall be paid in (~~like~~) the same manner, as provided in
24 subsection (4) of this section, upon the filing with the department of
25 a certified copy of the order or judgment of the court. Except as to
26 the credits in computing tax authorized by RCW 82.04.435, interest at
27 the rate of three percent per annum shall be allowed by the department
28 and by any court on the amount of any refund, credit, or other recovery
29 allowed to a taxpayer for taxes, penalties, or interest paid by the
30 taxpayer before January 1, 1992. For refunds or credits of amounts

1 paid or other recovery allowed to a taxpayer after December 31, 1991,
2 the rate of interest shall be the rate as computed for assessments
3 under RCW 82.32.050(2), less one percentage point."

4 "Sec. 3. RCW 82.32.100 and 1989 c 378 s 21 are each amended to
5 read as follows:

6 (1) If any person fails or refuses to make any return or to make
7 available for examination the records required by this chapter, the
8 department shall proceed, in such manner as it may deem best, to obtain
9 facts and information on which to base its estimate of the tax; and to
10 this end the department may examine the (~~books,~~) records(~~,~~ and
11 papers) of any such person (~~and may take evidence, on oath, of any~~
12 person, relating to the subject of inquiry)) as provided in RCW
13 82.32.110.

14 (2) As soon as the department procures such facts and information
15 as it is able to obtain upon which to base the assessment of any tax
16 payable by any person who has failed or refused to make a return, it
17 shall proceed to determine and assess against such person the tax and
18 any applicable penalties or interest due, but such action shall not
19 deprive such person from appealing (~~to the superior court as~~
20 hereinafter provided. ~~To the assessment the department shall add the~~
21 ~~penalties provided in RCW 82.32.090~~) the assessment as provided in
22 this chapter. The department shall notify the taxpayer by mail of the
23 total amount of such tax, penalties, and interest, and the total amount
24 shall become due and shall be paid within thirty days from the date of
25 such notice.

26 (3) No assessment or correction of an assessment may be made by the
27 department more than four years after the close of the tax year, except
28 (~~(+1)~~) (a) against a taxpayer who has not registered as required by
29 this chapter, (~~(+2)~~) (b) upon a showing of fraud or of

1 misrepresentation of a material fact by the taxpayer, or ((+3+)) (c)
2 where a taxpayer has executed a written waiver of such limitation. The
3 execution of a written waiver shall also extend the period for making
4 a refund or credit as provided in RCW 82.32.060(2)."

5 "NEW SECTION. Sec. 4. (1) This act shall take effect July 1,
6 1992.

7 (2) This act is effective for all written waivers that remain
8 enforceable as of July 1, 1992."

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12 On page 1, line 1 of the title, after "taxes;" strike the remainder
13 of the title and insert "amending RCW 82.32.050, 82.32.060, and
14 82.32.100; and providing an effective date."