

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2592

Chapter 149, Laws of 1996

54th Legislature
1996 Regular Session

PENALTY AND INTEREST ADMINISTRATION OF THE DEPARTMENT
OF REVENUE--PROVISION OF CONSISTENCY

EFFECTIVE DATE: 1/1/97

Passed by the House March 2, 1996
Yeas 89 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate February 28, 1996
Yeas 44 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 25, 1996

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2592** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 25, 1996 - 4:23 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2592

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Finance (originally sponsored by Representatives B. Thomas, Morris and Boldt; by request of Department of Revenue)

Read first time 02/06/96.

1 AN ACT Relating to penalty and interest administration of the
2 department of revenue; amending RCW 82.32.050, 82.32.190, 82.32.200,
3 82.45.100, 82.45.150, 82.24.120, 82.24.180, 82.24.270, 82.24.280,
4 63.29.340, 54.28.060, 83.100.070, 83.100.130, 82.32.090, 54.28.040,
5 82.32.105, and 82.12.045; adding a new section to chapter 83.100 RCW;
6 creating a new section; and providing an effective date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that a consistent
9 application of interest and penalties is in the best interest of the
10 residents of the state of Washington. The legislature also finds that
11 the goal of the department of revenue's interest and penalty system
12 should be to encourage taxpayers to voluntarily comply with
13 Washington's tax code in a timely manner. The administration of tax
14 programs requires that there be consequences for those taxpayers who do
15 not timely satisfy their reporting and tax obligations, but these
16 consequences should not be so severe as to discourage taxpayers from
17 voluntarily satisfying their tax obligations.

1 It is the intent of the legislature that, to the extent possible,
2 a single interest and penalty system apply to all tax programs
3 administered by the department of revenue.

4 **Sec. 2.** RCW 82.32.050 and 1992 c 169 s 1 are each amended to read
5 as follows:

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

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

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

36 (4) For the purposes of this section, "return" means any document
37 a person is required by the state of Washington to file to satisfy or

1 establish a tax or fee obligation that is administered or collected by
2 the department of revenue and that has a statutorily defined due date.

3 **Sec. 3.** RCW 82.32.190 and 1971 ex.s. c 299 s 21 are each amended
4 to read as follows:

5 (1) The department, by its order, may hold in abeyance the
6 collection of tax from any taxpayer or any group of taxpayers when a
7 question bearing on their liability for tax hereunder is pending before
8 the courts(~~(:—PROVIDED, That)~~). The department may impose such
9 conditions as may be deemed just and equitable and shall require the
10 payment of interest at the rate of three-quarters of one percent of the
11 amount of the tax for each thirty days or portion thereof from the date
12 upon which such tax became due until the date of payment.

13 (2) Interest imposed under this section for periods after the
14 effective date of this act shall be computed on a daily basis at the
15 rate as computed under RCW 82.32.050(2). The rate so computed shall be
16 adjusted on the first day of January of each year. Interest for taxes
17 held in abeyance under this section before the effective date of this
18 act but outstanding after the effective date of this act shall not be
19 recalculated but shall remain at three-quarters of one percent per each
20 thirty days or portion thereof.

21 **Sec. 4.** RCW 82.32.200 and 1975 1st ex.s. c 278 s 83 are each
22 amended to read as follows:

23 (1) When any assessment or additional assessment has been made, the
24 taxpayer may obtain a stay of collection, under such circumstances and
25 for such periods as the department of revenue may by general regulation
26 provide, of the whole or any part thereof, by filing with the
27 department a bond in an amount, not exceeding twice the amount on which
28 stay is desired, and with sureties as the department deems necessary,
29 conditioned for the payment of the amount of the assessments,
30 collection of which is stayed by the bond, together with the interest
31 thereon at the rate of one percent of the amount of such assessment for
32 each thirty days or portion thereof from the (~~due date thereof until~~
33 ~~paid~~) date the bond is filed until the date of payment.

34 (2) Interest imposed under this section after the effective date of
35 this act shall be computed on a daily basis on the amount of tax at the
36 rate as computed under RCW 82.32.050(2). The rate so computed shall be
37 adjusted on the first day of January of each year. Interest for bonds

1 filed before the effective date of this act but outstanding after the
2 effective date of this act shall not be recalculated but shall remain
3 at one percent per each thirty days or portion thereof.

4 **Sec. 5.** RCW 82.45.100 and 1993 sp.s. c 25 s 507 are each amended
5 to read as follows:

6 (1) Payment of the tax imposed under this chapter is due and
7 payable immediately at the time of sale, and if not paid within
8 (~~thirty days~~) one month thereafter shall bear interest at the rate of
9 one percent per month from the time of sale until the date of payment.

10 (2) In addition to the interest described in subsection (1) of this
11 section, if the payment of any tax is not received by the county
12 treasurer or the department of revenue, as the case may be, within
13 (~~thirty days~~) one month of the date due, there shall be assessed a
14 penalty of five percent of the amount of the tax; if the tax is not
15 received within (~~sixty days~~) two months of the date due, there shall
16 be assessed a total penalty of ten percent of the amount of the tax;
17 and if the tax is not received within (~~ninety days~~) three months of
18 the date due, there shall be assessed a total penalty of twenty percent
19 of the amount of the tax. The payment of the penalty described in this
20 subsection shall be collectible from the seller only, and RCW 82.45.070
21 does not apply to the penalties described in this subsection.

22 (3) If the tax imposed under this chapter is not received by the
23 due date, the transferee shall be personally liable for the tax, along
24 with any interest as provided in subsection (1) of this section,
25 unless:

26 (a) An instrument evidencing the sale is recorded in the official
27 real property records of the county in which the property conveyed is
28 located; or

29 (b) Either the transferor or transferee notifies the department of
30 revenue in writing of the occurrence of the sale within thirty days
31 following the date of the sale.

32 (4) If upon examination of any affidavits or from other information
33 obtained by the department or its agents it appears that all or a
34 portion of the tax is unpaid, the department shall assess against the
35 taxpayer the additional amount found to be due plus interest and
36 penalties as provided in subsections (1) and (2) of this section. (~~If~~
37 ~~the department finds that all or any part of the deficiency resulted~~
38 ~~from an intent to evade the tax payable under this chapter, an~~

1 ~~additional penalty of fifty percent of the additional tax found to be~~
2 ~~due shall be added.))~~ The department shall notify the taxpayer by mail
3 of the additional amount and the same shall become due and shall be
4 paid within thirty days from the date of the notice, or within such
5 further time as the department may provide.

6 (5) No assessment or refund may be made by the department more than
7 four years after the date of sale except upon a showing of:

8 (a) Fraud or misrepresentation of a material fact by the taxpayer;

9 (b) A failure by the taxpayer to record documentation of a sale or
10 otherwise report the sale to the county treasurer; or

11 (c) A failure of the transferor or transferee to report the sale
12 under RCW 82.45.090(2).

13 (6) Penalties collected (~~pursuant to~~) under subsection (2) of
14 this section and RCW 82.32.090 (2) through (6) shall be deposited in
15 the housing trust fund as described in chapter 43.185 RCW.

16 **Sec. 6.** RCW 82.45.150 and 1994 c 137 s 1 are each amended to read
17 as follows:

18 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.050,
19 82.32.140, (~~and~~) 82.32.270, and (~~except for the penalties and the~~
20 ~~limitations thereon imposed by RCW~~) 82.32.090(1) and (8), applies to
21 the tax imposed by this chapter, in addition to any other provisions of
22 law for the payment and enforcement of the tax imposed by this chapter.
23 The department of revenue shall by rule provide for the effective
24 administration of this chapter. The rules shall prescribe and furnish
25 a real estate excise tax affidavit form verified by both the seller and
26 the buyer, or agents of each, to be used by each county, or the
27 department, as the case may be, in the collection of the tax imposed by
28 this chapter, except that an affidavit given in connection with grant
29 of an easement or right of way to a gas, electrical, or
30 telecommunications company, as defined in RCW 80.04.010, or to a public
31 utility district or cooperative that distributes electricity, need be
32 verified only on behalf of the company, district, or cooperative. The
33 department of revenue shall annually conduct audits of transactions and
34 affidavits filed under this chapter.

35 **Sec. 7.** RCW 82.24.120 and 1995 c 278 s 8 are each amended to read
36 as follows:

1 (1) If any person, subject to the provisions of this chapter or any
2 rules adopted by the department of revenue under authority hereof, is
3 found to have failed to affix the stamps required, or to have them
4 affixed as herein provided, or to pay any tax due hereunder, or to have
5 violated any of the provisions of this chapter or rules adopted by the
6 department of revenue in the administration hereof, there shall be
7 assessed and collected from such person, in addition to any tax that
8 may be found due, a remedial penalty equal to the greater of ten
9 dollars per package of unstamped cigarettes or two hundred fifty
10 dollars, plus interest (~~thereon~~) on the amount of the tax at the rate
11 as computed under RCW 82.32.050(2) from the date the tax became due
12 until the date of payment, and upon notice mailed to the last known
13 address of the person. The amount shall become due and payable in
14 thirty days from the date of the notice. If the amount remains unpaid,
15 the department or its duly authorized agent may make immediate demand
16 upon such person for the payment of all such taxes, penalties, and
17 interest.

18 (2) The department, for good reason shown, may (~~remit~~) waive or
19 cancel all or any part of penalties imposed, but the taxpayer must pay
20 all taxes due and interest thereon, at the rate as computed under RCW
21 82.32.050(2) from the date the tax became due until the date of
22 payment.

23 (3) The keeping of any unstamped articles coming within the
24 provisions of this chapter shall be prima facie evidence of intent to
25 violate the provisions of this chapter.

26 (4) This section does not apply to taxes or tax increases due under
27 RCW 82.24.270 and 82.24.280.

28 **Sec. 8.** RCW 82.24.180 and 1990 c 267 s 2 are each amended to read
29 as follows:

30 (1) The department of revenue may return any property seized under
31 the provisions of this chapter when it is shown that there was no
32 intention to violate the provisions thereof.

33 (2) When any property is returned under this section, the
34 department may return such goods to the parties from whom they were
35 seized if and when such parties affix the proper amount of stamps
36 thereto, and pay to the department as penalty an amount equal to the
37 greater of ten dollars per package of unstamped cigarettes or two
38 hundred fifty dollars, and interest (~~thereon at the rate of one~~

1 ~~percent for each thirty days or portion thereof))~~ on the amount of the
2 tax at the rate as computed under RCW 82.32.050(2) from the date the
3 tax became due until the date of payment, and in such cases, no
4 advertisement shall be made or notices posted in connection with said
5 seizure.

6 **Sec. 9.** RCW 82.24.270 and 1995 c 278 s 12 are each amended to read
7 as follows:

8 (1) All cigarettes taxed under this chapter that are given away for
9 advertising or other purposes are not required to have the state tax
10 stamp affixed. Instead, the manufacturer of the cigarettes shall pay
11 the tax on a monthly tax return to be supplied by the department.

12 (2) The tax is due on or before the twenty-fifth day of the month
13 following the month in which the taxable activities, that is the
14 providing of cigarette samples, occur. If not paid by the due date,
15 interest applies to any unpaid tax (~~or penalty~~). Interest shall be
16 calculated at the rate as computed under RCW 82.32.050(2) from the date
17 the tax became due until the date of payment.

18 (3) If upon examination of any returns or from other information
19 obtained by the department it appears that a tax or penalty has been
20 paid less than that properly due, the department shall assess against
21 the taxpayer the additional amount found to be due. The department
22 shall notify the taxpayer by mail of the additional amount due,
23 including any applicable penalties and interest. The taxpayer shall
24 pay the additional amount within thirty days from the date of the
25 notice, or within such further time as the department may provide.

26 (4) All the cigarettes must evidence the payment of the tax by
27 having printed on their packages wording to the following effect:
28 "Complimentary, not for sale, all applicable state taxes paid by
29 manufacturer."

30 (5) All of chapter 82.32 RCW applies to taxes due under this
31 section except: RCW 82.32.050(1) and 82.32.270.

32 **Sec. 10.** RCW 82.24.280 and 1995 c 278 s 13 are each amended to
33 read as follows:

34 (1) Any additional tax liability arising from a tax rate increase
35 under this chapter shall be paid, along with reports and returns
36 prescribed by the department, on or before the last day of the month in
37 which the increase becomes effective.

1 (2) If not paid by the due date, interest shall apply to any unpaid
2 tax (~~(or penalty)~~). Interest shall be calculated at the rate as
3 computed under RCW 82.32.050(2) from the date the tax became due until
4 the date of payment.

5 (3) If upon examination of any returns or from other information
6 obtained by the department it appears that a tax or penalty has been
7 paid less than that properly due, the department shall assess against
8 the taxpayer such additional amount found to be due. The department
9 shall notify the taxpayer by mail of the additional amount due,
10 including any applicable penalties and interest. The taxpayer shall
11 pay the additional amount within thirty days from the date of the
12 notice, or within such further time as the department may provide.

13 (4) All of chapter 82.32 RCW applies to tax rate increases except:
14 RCW 82.32.050(1) and 82.32.270.

15 **Sec. 11.** RCW 63.29.340 and 1983 c 179 s 34 are each amended to
16 read as follows:

17 (1) A person who fails to pay or deliver property within the time
18 prescribed by this chapter shall be required to pay to the department
19 interest at the (~~(maximum rate permitted under RCW 19.52.020)~~) rate as
20 computed under RCW 82.32.050(2) from the date the property should have
21 been paid or delivered until the property is paid or delivered.

22 (2) A person who willfully fails to render any report, to pay or
23 deliver property, or to perform other duties required under this
24 chapter shall pay a civil penalty of one hundred dollars for each day
25 the report is withheld or the duty is not performed, but not more than
26 five thousand dollars, plus one hundred percent of the value of the
27 property which should have been reported, paid or delivered.

28 (3) A person who willfully refuses after written demand by the
29 department to pay or deliver property to the department as required
30 under this chapter or who enters into a contract to avoid the duties of
31 this chapter is guilty of a gross misdemeanor and upon conviction may
32 be punished by a fine of not more than one thousand dollars or
33 imprisonment for not more than one year, or both.

34 **Sec. 12.** RCW 54.28.060 and 1957 c 278 s 6 are each amended to read
35 as follows:

36 Interest at the rate (~~(of six percent per annum)~~) as computed under
37 RCW 82.32.050(2) shall be added to the tax hereby imposed (~~(after)~~)

1 from the due date until the date of payment. The tax shall constitute
2 a debt to the state and may be collected as such.

3 **Sec. 13.** RCW 83.100.070 and 1988 c 64 s 8 are each amended to read
4 as follows:

5 (1) Any tax due under this chapter which is not paid by the due
6 date under RCW 83.100.060(1) shall bear interest at the rate of twelve
7 percent per annum from the date the tax is due until (~~paid~~) the date
8 of payment.

9 (2) Interest imposed under this section for periods after the
10 effective date of this act shall be computed at the rate as computed
11 under RCW 82.32.050(2). The rate so computed shall be adjusted on the
12 first day of January of each year.

13 (3) If the Washington return is not filed when due under RCW
14 83.100.050, then the person required to file the federal return shall
15 pay, in addition to interest, a penalty equal to five percent of the
16 tax due for each month after the date the return is due until filed.
17 No penalty may exceed twenty-five percent of the tax.

18 **Sec. 14.** RCW 83.100.130 and 1988 c 64 s 12 are each amended to
19 read as follows:

20 (1) Whenever the department determines that a person required to
21 file the federal return has overpaid the tax due under this chapter,
22 the department shall refund the amount of the overpayment, together
23 with interest at the then existing rate under RCW 83.100.070(1). If
24 the application for refund, with supporting documents, is filed within
25 four months after an adjustment or final determination of federal tax
26 liability, the department shall pay interest until the date the refund
27 is mailed. If the application for refund, with supporting documents,
28 is filed after four months after the adjustment or final determination,
29 the department shall pay interest only until the end of the four-month
30 period.

31 (2) Interest refunded under this section for periods after the
32 effective date of this act shall be computed on a daily basis at the
33 rate as computed under RCW 82.32.050(2) less one percentage point, and
34 shall be refunded from the date of overpayment until the date the
35 refund is mailed. The rate so computed shall be adjusted on the first
36 day of January of each year.

1 **Sec. 15.** RCW 82.32.090 and 1992 c 206 s 3 are each amended to read
2 as follows:

3 (1) If payment of any tax due on a return to be filed by a taxpayer
4 is not received by the department of revenue by the due date, there
5 shall be assessed a penalty of five percent of the amount of the tax;
6 and if the tax is not received (~~((within thirty days after))~~) on or
7 before the last day of the month following the due date, there shall be
8 assessed a total penalty of ten percent of the amount of the tax; and
9 if the tax is not received (~~((within sixty days after))~~) on or before the
10 last day of the second month following the due date, there shall be
11 assessed a total penalty of twenty percent of the amount of the tax.
12 No penalty so added shall be less than five dollars.

13 (2) If payment of any tax assessed by the department of revenue is
14 not received by the department by the due date specified in the notice,
15 or any extension thereof, the department shall add a penalty of ten
16 percent of the amount of the additional tax found due. No penalty so
17 added shall be less than five dollars.

18 (3) If a warrant be issued by the department of revenue for the
19 collection of taxes, increases, and penalties, there shall be added
20 thereto a penalty of five percent of the amount of the tax, but not
21 less than ten dollars.

22 (4) If the department finds that all or any part of a deficiency
23 resulted from the disregard of specific written instructions as to
24 reporting or tax liabilities, the department shall add a penalty of ten
25 percent of the amount of the additional tax found due because of the
26 failure to follow the instructions. A taxpayer disregards specific
27 written instructions when the department of revenue has informed the
28 taxpayer in writing of the taxpayer's tax obligations and the taxpayer
29 fails to act in accordance with those instructions unless the
30 department has not issued final instructions because the matter is
31 under appeal pursuant to this chapter or departmental regulations. The
32 department shall not assess the penalty under this section upon any
33 taxpayer who has made a good faith effort to comply with the specific
34 written instructions provided by the department to that taxpayer.
35 Specific written instructions may be given as a part of a tax
36 assessment, audit, determination, or closing agreement, provided that
37 such specific written instructions shall apply only to the taxpayer
38 addressed or referenced on such documents. Any specific written
39 instructions by the department of revenue shall be clearly identified

1 as such and shall inform the taxpayer that failure to follow the
2 instructions may subject the taxpayer to the penalties imposed by this
3 subsection.

4 (5) If the department finds that all or any part of the deficiency
5 resulted from an intent to evade the tax payable hereunder, a further
6 penalty of fifty percent of the additional tax found to be due shall be
7 added.

8 (6) The aggregate of penalties imposed under subsections (1), (2),
9 and (3) of this section (~~for failure to pay a tax due on a return by~~
10 ~~the due date, late payment of any tax, increase, or penalty, or~~
11 ~~issuance of a warrant~~)) shall not exceed thirty-five percent of the tax
12 due, or twenty dollars, whichever is greater. This subsection does not
13 prohibit or restrict the application of other penalties authorized by
14 law.

15 (7) The department of revenue may not impose both the evasion
16 penalty and the penalty for disregarding specific written instructions
17 on the same tax found to be due.

18 (8) For the purposes of this section, "return" means any document
19 a person is required by the state of Washington to file to satisfy or
20 establish a tax or fee obligation that is administered or collected by
21 the department of revenue, and that has a statutorily defined due date.

22 **Sec. 16.** RCW 54.28.040 and 1982 1st ex.s. c 35 s 20 are each
23 amended to read as follows:

24 (~~Prior to~~) (1) Before May 1st, the department of revenue shall
25 compute the tax imposed by this chapter for the last preceding calendar
26 year and notify the district of the amount thereof, which shall be
27 payable on or before the following June 1st.

28 (2) If payment of any tax is not received by the department on or
29 before the due date, there shall be assessed a penalty of five percent
30 of the amount of the tax; if the tax is not received within one month
31 of the due date, there shall be assessed a total penalty of ten percent
32 of the amount of the tax; and if the tax is not received within two
33 months of the due date, there shall be assessed a total penalty of
34 twenty percent of the amount of the tax.

35 (3) Upon receipt of the amount of each tax imposed the department
36 of revenue shall deposit the same with the state treasurer, who shall
37 deposit four percent of the revenues received under RCW 54.28.020(1)
38 and 54.28.025(1) and all revenues received under RCW 54.28.020(2) and

1 54.28.025(2) in the general fund of the state and shall distribute the
2 remainder in the manner hereinafter set forth. The state treasurer
3 shall send a duplicate copy of each transmittal to the department of
4 revenue.

5 **Sec. 17.** RCW 82.32.105 and 1975 1st ex.s. c 278 s 78 are each
6 amended to read as follows:

7 (1) If the department of revenue finds that the payment by a
8 taxpayer of a tax less than that properly due or the failure of a
9 taxpayer to pay any tax by the due date was the result of circumstances
10 beyond the control of the taxpayer, the department of revenue shall
11 waive or cancel any ((interest or)) penalties imposed under this
12 chapter with respect to such tax. ((The department of revenue shall
13 prescribe rules for the waiver or cancellation of interest or penalties
14 imposed by this chapter. Notwithstanding the foregoing the amount of
15 any interest which has been waived, canceled or refunded prior to May
16 1, 1965 shall not be reassessed according to the provisions of this
17 chapter.))

18 (2) The department shall waive or cancel the penalty imposed under
19 RCW 82.32.090(1) when the circumstances under which the delinquency
20 occurred do not qualify for waiver or cancellation under subsection (1)
21 of this section if:

22 (a) The taxpayer requests the waiver for a tax return required to
23 be filed under RCW 82.32.045, 82.23B.020, 82.27.060, 82.29A.050, or
24 84.33.086; and

25 (b) The taxpayer has timely filed and remitted payment on all tax
26 returns due for that tax program for a period of twenty-four months
27 immediately preceding the period covered by the return for which the
28 waiver is being requested.

29 (3) The department shall waive or cancel interest imposed under
30 this chapter if:

31 (a) The failure to timely pay the tax was the direct result of
32 written instructions given the taxpayer by the department; or

33 (b) The extension of a due date for payment of an assessment of
34 deficiency was not at the request of the taxpayer and was for the sole
35 convenience of the department.

36 (4) The department of revenue shall adopt rules for the waiver or
37 cancellation of penalties and interest imposed by this chapter.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 83.100
2 RCW to read as follows:

3 The department may enter into closing agreements as provided in RCW
4 82.32.350 and 82.32.360.

5 **Sec. 19.** RCW 82.12.045 and 1983 c 77 s 2 are each amended to read
6 as follows:

7 (1) In the collection of the use tax on motor vehicles, the
8 department of revenue may designate the county auditors of the several
9 counties of the state as its collecting agents. Upon such designation,
10 it shall be the duty of each county auditor to collect the tax at the
11 time an applicant applies for the registration of, and transfer of
12 title to, the motor vehicle, except in the following instances:

13 ~~((+1))~~ (a) Where the applicant exhibits a dealer's report of sale
14 showing that the retail sales tax has been collected by the dealer;

15 ~~((+2))~~ (b) Where the application is for the renewal of
16 registration;

17 ~~((+3))~~ (c) Where the applicant presents a written statement signed
18 by the department of revenue, or its duly authorized agent showing that
19 no use tax is legally due; or

20 ~~((+4))~~ (d) Where the applicant presents satisfactory evidence
21 showing that the retail sales tax or the use tax has been paid by him
22 on the vehicle in question.

23 (2) The term "motor vehicle," as used in this section means and
24 includes all motor vehicles, trailers and semitrailers used, or of a
25 type designed primarily to be used, upon the public streets and
26 highways, for the convenience or pleasure of the owner, or for the
27 conveyance, for hire or otherwise, of persons or property, including
28 fixed loads, facilities for human habitation, and vehicles carrying
29 exempt licenses.

30 (3) It shall be the duty of every applicant for registration and
31 transfer of certificate of title who is subject to payment of tax under
32 this section to declare upon his application the value of the vehicle
33 for which application is made, which shall consist of the consideration
34 paid or contracted to be paid therefor. ~~((Any person wilfully
35 misrepresenting, or failing or refusing to declare upon his
36 application, such value shall be guilty of a gross misdemeanor.))~~

37 (4) Each county auditor who acts as agent of the department of
38 revenue shall at the time of remitting license fee receipts on motor

1 vehicles subject to the provisions of this section pay over and account
2 to the state treasurer for all use tax revenue collected under this
3 section, after first deducting as his collection fee the sum of two
4 dollars for each motor vehicle upon which the tax has been collected.
5 All revenue received by the state treasurer under this section shall be
6 credited to the general fund. The auditor's collection fee shall be
7 deposited in the county current expense fund. A duplicate of the
8 county auditor's transmittal report to the state treasurer shall be
9 forwarded forthwith to the department of revenue.

10 (5) Any applicant who has paid use tax to a county auditor under
11 this section may apply to the department of revenue for refund thereof
12 if he has reason to believe that such tax was not legally due and
13 owing. No refund shall be allowed unless application therefor is
14 received by the department of revenue within (~~two years after payment~~
15 ~~of the tax~~) the statutory period for assessment of taxes, penalties,
16 or interest prescribed by RCW 82.32.050(3). Upon receipt of an
17 application for refund the department of revenue shall consider the
18 same and issue its order either granting or denying it and if refund is
19 denied the taxpayer shall have the right of appeal as provided in RCW
20 82.32.170, 82.32.180 and 82.32.190.

21 (6) The provisions of this section shall be construed as cumulative
22 of other methods prescribed in chapters 82.04 to 82.32 RCW, inclusive,
23 for the collection of the tax imposed by this chapter. The department
24 of revenue shall have power to promulgate such rules (~~and~~
25 ~~regulations~~) as may be necessary to administer the provisions of this
26 section. Any duties required by this section to be performed by the
27 county auditor may be performed by the director of licensing but no
28 collection fee shall be deductible by said director in remitting use
29 tax revenue to the state treasurer.

30 NEW SECTION. Sec. 20. This act shall take effect January 1, 1997.
Passed the House March 2, 1996.
Passed the Senate February 28, 1996.
Approved by the Governor March 25, 1996.
Filed in Office of Secretary of State March 25, 1996.