

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2335

Chapter 312, Laws of 1998

55th Legislature
1998 Regular Session

CONSOLIDATING BUSINESS AND OCCUPATION TAXES INTO FEWER CATEGORIES

EFFECTIVE DATE: 7/1/98

Passed by the House March 12, 1998
Yeas 85 Nays 11

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

Passed by the Senate March 12, 1998
Yeas 45 Nays 0

BRAD OWEN
President of the Senate

Approved April 3, 1998

GARY LOCKE
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 **HOUSE BILL 2335** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

April 3, 1998 - 2:13 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2335

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington

55th Legislature

1998 Regular Session

By Representatives B. Thomas, Mulliken, Thompson, Morris, Gardner, Linville, Backlund, Cooke, Carrell, Kastama, Schoesler, Van Luven, Dunn and Lambert; by request of Department of Revenue

Prefiled 01/07/98. Read first time 01/12/98. Referred to Committee on Finance.

1 AN ACT Relating to consolidating business and occupation tax rates
2 into fewer categories; amending RCW 48.14.080, 82.04.240, 82.04.250,
3 82.04.260, 82.04.270, 82.04.290, and 82.04.440; adding new sections to
4 chapter 82.04 RCW; creating a new section; and providing an effective
5 date.

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

7 **Sec. 1.** RCW 48.14.080 and 1993 sp.s. c 25 s 602 are each amended
8 to read as follows:

9 As to insurers, other than title insurers and taxpayers under RCW
10 48.14.0201, the taxes imposed by this title shall be in lieu of all
11 other taxes, except taxes on real and tangible personal property,
12 excise taxes on the sale, purchase or use of such property, and the tax
13 imposed in RCW 82.04.260(~~(+15+)~~) (12).

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
15 to read as follows:

16 This chapter does not apply to amounts received from buying wheat,
17 oats, dry peas, dry beans, lentils, triticale, canola, corn, rye, and

1 barley, but not including any manufactured products thereof, and
2 selling the same at wholesale.

3 **Sec. 3.** RCW 82.04.240 and 1993 sp.s. c 25 s 102 are each amended
4 to read as follows:

5 Upon every person except persons taxable under RCW 82.04.260 (1),
6 (2), ~~((3), (7))~~ (4), (5), ~~((7), (8), or (9))~~ or (6) engaging within
7 this state in business as a manufacturer; as to such persons the amount
8 of the tax with respect to such business shall be equal to the value of
9 the products, including byproducts, manufactured, multiplied by the
10 rate of 0.484 percent.

11 The measure of the tax is the value of the products, including
12 byproducts, so manufactured regardless of the place of sale or the fact
13 that deliveries may be made to points outside the state.

14 **Sec. 4.** RCW 82.04.250 and 1993 sp.s. c 25 s 103 are each amended
15 to read as follows:

16 (1) Upon every person except persons taxable under RCW
17 82.04.260~~((8))~~ (5) or subsection (2) of this section engaging within
18 this state in the business of making sales at retail, as to such
19 persons, the amount of tax with respect to such business shall be equal
20 to the gross proceeds of sales of the business, multiplied by the rate
21 of 0.471 percent.

22 (2) Upon every person engaging within this state in the business of
23 making sales at retail that are exempt from the tax imposed under
24 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
25 82.08.0263, as to such persons, the amount of tax with respect to such
26 business shall be equal to the gross proceeds of sales of the business,
27 multiplied by the rate of 0.484 percent.

28 **Sec. 5.** RCW 82.04.260 and 1998 c . . . s 3 (section 3 of
29 Z-1031.7/98) are each amended to read as follows:

30 ~~(1) ((Upon every person engaging within this state in the business
31 of buying wheat, oats, dry peas, dry beans, lentils, triticale, canola,
32 corn, rye and barley, but not including any manufactured products
33 thereof, and selling the same at wholesale; the tax imposed shall be
34 equal to the gross proceeds derived from such sales multiplied by the
35 rate of 0.011 percent.~~

1 ~~(2))~~ Upon every person engaging within this state in the business
2 of manufacturing:

3 (a) Wheat into flour, barley into pearl barley, soybeans into
4 soybean oil, canola into canola oil, canola meal, or canola byproducts,
5 or sunflower seeds into sunflower oil; as to such persons the amount of
6 tax with respect to such business shall be equal to the value of the
7 flour, pearl barley, oil, canola meal, or canola byproduct
8 manufactured, multiplied by the rate of 0.138 percent;

9 (b) Seafood products which remain in a raw, raw frozen, or raw
10 salted state at the completion of the manufacturing by that person; as
11 to such persons the amount of tax with respect to such business shall
12 be equal to the value of the products manufactured, multiplied by the
13 rate of 0.138 percent; and

14 (c) By canning, preserving, freezing, processing, or dehydrating
15 fresh fruits and vegetables, or selling at wholesale fresh fruits and
16 vegetables canned, preserved, frozen, processed, or dehydrated by the
17 seller and sold to purchasers who transport in the ordinary course of
18 business the goods out of this state; as to such persons the amount of
19 tax with respect to such business shall be equal to the value of the
20 products canned, preserved, frozen, processed, or dehydrated multiplied
21 by the rate of 0.138 percent. As proof of sale to a person who
22 transports in the ordinary course of business goods out of this state,
23 the seller shall annually provide a statement in a form prescribed by
24 the department and retain the statement as a business record.

25 ~~((3))~~ (2) Upon every person engaging within this state in the
26 business of splitting or processing dried peas; as to such persons the
27 amount of tax with respect to such business shall be equal to the value
28 of the peas split or processed, multiplied by the rate of ~~((0.275))~~
29 0.138 percent.

30 ~~((4) Upon every person engaging within this state in the business~~
31 ~~of manufacturing seafood products which remain in a raw, raw frozen, or~~
32 ~~raw salted state at the completion of the manufacturing by that person;~~
33 ~~as to such persons the amount of tax with respect to such business~~
34 ~~shall be equal to the value of the products manufactured, multiplied by~~
35 ~~the rate of 0.138 percent.~~

36 ~~(5) Upon every person engaging within this state in the business of~~
37 ~~manufacturing by canning, preserving, freezing, processing, or~~
38 ~~dehydrating fresh fruits and vegetables, or selling at wholesale fresh~~
39 ~~fruits and vegetables canned, preserved, frozen, processed, or~~

1 dehydrated by the seller and sold to purchasers who transport in the
2 ordinary course of business the goods out of this state; as to such
3 persons the amount of tax with respect to such business shall be equal
4 to the value of the products canned, preserved, frozen, processed, or
5 dehydrated multiplied by the rate of 0.33 percent. As proof of sale to
6 a person who transports in the ordinary course of business goods out of
7 this state, the seller shall annually provide a statement in a form
8 prescribed by the department and retain the statement as a business
9 record.

10 ~~((6))~~ (3) Upon every nonprofit corporation and nonprofit
11 association engaging within this state in research and development, as
12 to such corporations and associations, the amount of tax with respect
13 to such activities shall be equal to the gross income derived from such
14 activities multiplied by the rate of 0.484 percent.

15 ~~((7))~~ (4) Upon every person engaging within this state in the
16 business of slaughtering, breaking and/or processing perishable meat
17 products and/or selling the same at wholesale only and not at retail;
18 as to such persons the tax imposed shall be equal to the gross proceeds
19 derived from such sales multiplied by the rate of 0.138 percent.

20 ~~((8))~~ (5) Upon every person engaging within this state in the
21 business of making sales, at retail or wholesale, of nuclear fuel
22 assemblies manufactured by that person, as to such persons the amount
23 of tax with respect to such business shall be equal to the gross
24 proceeds of sales of the assemblies multiplied by the rate of 0.275
25 percent.

26 ~~((9))~~ (6) Upon every person engaging within this state in the
27 business of manufacturing nuclear fuel assemblies, as to such persons
28 the amount of tax with respect to such business shall be equal to the
29 value of the products manufactured multiplied by the rate of 0.275
30 percent.

31 ~~((10))~~ (7) Upon every person engaging within this state in the
32 business of acting as a travel agent or tour operator; as to such
33 persons the amount of the tax with respect to such activities shall be
34 equal to the gross income derived from such activities multiplied by
35 the rate of 0.275 percent.

36 ~~((11))~~ (8) Upon every person engaging within this state in
37 business as an international steamship agent, international customs
38 house broker, international freight forwarder, vessel and/or cargo
39 charter broker in foreign commerce, and/or international air cargo

1 agent; as to such persons the amount of the tax with respect to only
2 international activities shall be equal to the gross income derived
3 from such activities multiplied by the rate of (~~(0.363)~~) 0.275 percent.

4 (~~(12)~~) (9) Upon every person engaging within this state in the
5 business of stevedoring and associated activities pertinent to the
6 movement of goods and commodities in waterborne interstate or foreign
7 commerce; as to such persons the amount of tax with respect to such
8 business shall be equal to the gross proceeds derived from such
9 activities multiplied by the rate of (~~(0.363)~~) 0.275 percent. Persons
10 subject to taxation under this subsection shall be exempt from payment
11 of taxes imposed by chapter 82.16 RCW for that portion of their
12 business subject to taxation under this subsection. Stevedoring and
13 associated activities pertinent to the conduct of goods and commodities
14 in waterborne interstate or foreign commerce are defined as all
15 activities of a labor, service or transportation nature whereby cargo
16 may be loaded or unloaded to or from vessels or barges, passing over,
17 onto or under a wharf, pier, or similar structure; cargo may be moved
18 to a warehouse or similar holding or storage yard or area to await
19 further movement in import or export or may move to a consolidation
20 freight station and be stuffed, unstuffed, containerized, separated or
21 otherwise segregated or aggregated for delivery or loaded on any mode
22 of transportation for delivery to its consignee. Specific activities
23 included in this definition are: Wharfage, handling, loading,
24 unloading, moving of cargo to a convenient place of delivery to the
25 consignee or a convenient place for further movement to export mode;
26 documentation services in connection with the receipt, delivery,
27 checking, care, custody and control of cargo required in the transfer
28 of cargo; imported automobile handling prior to delivery to consignee;
29 terminal stevedoring and incidental vessel services, including but not
30 limited to plugging and unplugging refrigerator service to containers,
31 trailers, and other refrigerated cargo receptacles, and securing ship
32 hatch covers.

33 (~~(13)~~) (10) Upon every person engaging within this state in the
34 business of disposing of low-level waste, as defined in RCW 43.145.010;
35 as to such persons the amount of the tax with respect to such business
36 shall be equal to the gross income of the business, excluding any fees
37 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
38 percent.

1 If the gross income of the taxpayer is attributable to activities
2 both within and without this state, the gross income attributable to
3 this state shall be determined in accordance with the methods of
4 apportionment required under RCW 82.04.460.

5 (~~((14))~~) (11) Upon every person engaging within this state as an
6 insurance agent, insurance broker, or insurance solicitor licensed
7 under chapter 48.17 RCW; as to such persons, the amount of the tax with
8 respect to such licensed activities shall be equal to the gross income
9 of such business multiplied by the rate of (~~((0.55))~~) 0.484 percent.

10 (~~((15))~~) (12) Upon every person engaging within this state in
11 business as a hospital, as defined in chapter 70.41 RCW, that is
12 operated as a nonprofit corporation or by the state or any of its
13 political subdivisions, as to such persons, the amount of tax with
14 respect to such activities shall be equal to the gross income of the
15 business multiplied by the rate of 0.75 percent through June 30, 1995,
16 and 1.5 percent thereafter. The moneys collected under this subsection
17 shall be deposited in the health services account created under RCW
18 43.72.900.

19 **Sec. 6.** RCW 82.04.270 and 1994 c 124 s 2 are each amended to read
20 as follows:

21 (1) Upon every person except persons taxable under (~~((subsections~~
22 ~~(1) or (8) of))~~) RCW 82.04.260(5) or section 2 of this act engaging
23 within this state in the business of making sales at wholesale; as to
24 such persons the amount of tax with respect to such business shall be
25 equal to the gross proceeds of sales of such business multiplied by the
26 rate of 0.484 percent.

27 (2) The tax imposed by this section is levied and shall be
28 collected from every person engaged in the business of distributing in
29 this state articles of tangible personal property, owned by them from
30 their own warehouse or other central location in this state to two or
31 more of their own retail stores or outlets, where no change of title or
32 ownership occurs, the intent hereof being to impose a tax equal to the
33 wholesaler's tax upon persons performing functions essentially
34 comparable to those of a wholesaler, but not actually making sales.
35 The tax designated in this section may not be assessed twice to the
36 same person for the same article. The amount of the tax as to such
37 persons shall be computed by multiplying 0.484 percent of the value of
38 the article so distributed as of the time of such distribution. The

1 department of revenue shall prescribe uniform and equitable rules for
2 the purpose of ascertaining such value, which value shall correspond as
3 nearly as possible to the gross proceeds from sales at wholesale in
4 this state of similar articles of like quality and character, and in
5 similar quantities by other taxpayers. Delivery trucks or vans will
6 not under the purposes of this section be considered to be retail
7 stores or outlets.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.04 RCW
9 to read as follows:

10 Upon every person engaging within this state in the business of
11 providing child care for periods of less than twenty-four hours; as to
12 such persons the amount of tax with respect to such business shall be
13 equal to the gross proceeds derived from such sales multiplied by the
14 rate of 0.484 percent.

15 **Sec. 8.** RCW 82.04.290 and 1997 c 7 s 2 are each amended to read as
16 follows:

17 (1) Upon every person engaging within this state in the business of
18 providing international investment management services, as to such
19 persons, the amount of tax with respect to such business shall be equal
20 to the gross income or gross proceeds of sales of the business
21 multiplied by a rate of 0.275 percent.

22 (2) Upon every person engaging within this state in any business
23 activity other than or in addition to those enumerated in RCW
24 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,
25 section 7 of this act, and 82.04.280, and subsection (1) of this
26 section; as to such persons the amount of tax on account of such
27 activities shall be equal to the gross income of the business
28 multiplied by the rate of 1.5 percent.

29 This section includes, among others, and without limiting the scope
30 hereof (whether or not title to materials used in the performance of
31 such business passes to another by accession, confusion or other than
32 by outright sale), persons engaged in the business of rendering any
33 type of service which does not constitute a "sale at retail" or a "sale
34 at wholesale." The value of advertising, demonstration, and
35 promotional supplies and materials furnished to an agent by his
36 principal or supplier to be used for informational, educational and
37 promotional purposes shall not be considered a part of the agent's

1 remuneration or commission and shall not be subject to taxation under
2 this section.

3 **Sec. 9.** RCW 82.04.440 and 1994 c 124 s 4 are each amended to read
4 as follows:

5 (1) Every person engaged in activities which are within the purview
6 of the provisions of two or more of sections RCW 82.04.230 to
7 82.04.290, inclusive, shall be taxable under each paragraph applicable
8 to the activities engaged in.

9 (2) Persons taxable under RCW 82.04.250, 82.04.270, or
10 82.04.260(~~((7))~~) (4) with respect to selling products in this state
11 shall be allowed a credit against those taxes for any (a) manufacturing
12 taxes paid with respect to the manufacturing of products so sold in
13 this state, and/or (b) extracting taxes paid with respect to the
14 extracting of products so sold in this state or ingredients of products
15 so sold in this state. Extracting taxes taken as credit under
16 subsection (3) of this section may also be taken under this subsection,
17 if otherwise allowable under this subsection. The amount of the credit
18 shall not exceed the tax liability arising under this chapter with
19 respect to the sale of those products.

20 (3) Persons taxable under RCW 82.04.240 or 82.04.260 (~~(subsection~~
21 ~~(4))~~) (1)(b) shall be allowed a credit against those taxes for any
22 extracting taxes paid with respect to extracting the ingredients of the
23 products so manufactured in this state. The amount of the credit shall
24 not exceed the tax liability arising under this chapter with respect to
25 the manufacturing of those products.

26 (4) Persons taxable under RCW 82.04.230, 82.04.240, or (~~(subsection~~
27 ~~(2), (3), (4), (5), or (7) of)~~) RCW 82.04.260 (1), (2), (4), or (6)
28 with respect to extracting or manufacturing products in this state
29 shall be allowed a credit against those taxes for any (i) gross
30 receipts taxes paid to another state with respect to the sales of the
31 products so extracted or manufactured in this state, (ii) manufacturing
32 taxes paid with respect to the manufacturing of products using
33 ingredients so extracted in this state, or (iii) manufacturing taxes
34 paid with respect to manufacturing activities completed in another
35 state for products so manufactured in this state. The amount of the
36 credit shall not exceed the tax liability arising under this chapter
37 with respect to the extraction or manufacturing of those products.

38 (5) For the purpose of this section:

1 (a) "Gross receipts tax" means a tax:

2 (i) Which is imposed on or measured by the gross volume of
3 business, in terms of gross receipts or in other terms, and in the
4 determination of which the deductions allowed would not constitute the
5 tax an income tax or value added tax; and

6 (ii) Which is also not, pursuant to law or custom, separately
7 stated from the sales price.

8 (b) "State" means (i) the state of Washington, (ii) a state of the
9 United States other than Washington, or any political subdivision of
10 such other state, (iii) the District of Columbia, and (iv) any foreign
11 country or political subdivision thereof.

12 (c) "Manufacturing tax" means a gross receipts tax imposed on the
13 act or privilege of engaging in business as a manufacturer, and
14 includes (i) the taxes imposed in RCW 82.04.240 and (~~(subsections (2),~~
15 ~~(3), (4), (5), and (7) of)~~) RCW 82.04.260 (1), (2), and (4), and (ii)
16 similar gross receipts taxes paid to other states.

17 (d) "Extracting tax" means a gross receipts tax imposed on the act
18 or privilege of engaging in business as an extractor, and includes the
19 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
20 other states.

21 (e) "Business", "manufacturer", "extractor", and other terms used
22 in this section have the meanings given in RCW 82.04.020 through
23 82.04.212, notwithstanding the use of those terms in the context of
24 describing taxes imposed by other states.

25 NEW SECTION. **Sec. 10.** This act does not affect any existing right
26 acquired or liability or obligation incurred under the sections amended
27 or repealed in this act or under any rule or order adopted under those
28 sections, nor does it affect any proceeding instituted under those
29 sections.

30 NEW SECTION. **Sec. 11.** This act takes effect July 1, 1998.

Passed the House March 12, 1998.

Passed the Senate March 12, 1998.

Approved by the Governor April 3, 1998.

Filed in Office of Secretary of State April 3, 1998.