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ENGROSSED SUBSTITUTE SENATE BILL 5531 - CC

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State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Loveland and Winsley; by request of Department of Revenue)

Read first time 02/19/99.

1 AN ACT Relating to updating the tax code by making administrative  
2 clarifications, correcting oversights, and deleting obsolete  
3 references; amending RCW 82.04.3651, 82.08.02567, 82.08.0266,  
4 82.08.02665, 82.04.355, 82.12.020, 82.12.02567, 82.12.0282, 82.16.047,  
5 82.32.060, 82.32.070, 82.35.080, 84.36.041, 84.36.350, 84.36.383,  
6 83.100.020, and 11.02.005; reenacting and amending RCW 82.04.270;  
7 reenacting RCW 82.04.270; adding a new section to chapter 82.12 RCW;  
8 repealing RCW 84.36.353 and 84.36.485; and providing effective dates.

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

10 **Sec. 1.** RCW 82.04.270 and 1998 c 312 s 6 and 1998 c 329 s 1 are  
11 each reenacted and amended to read as follows:

12 Upon every person except persons taxable under RCW 82.04.260(5)  
13 ((or 82.04.332)) engaging within this state in the business of making  
14 sales at wholesale; as to such persons the amount of tax with respect  
15 to such business shall be equal to the gross proceeds of sales of such  
16 business multiplied by the rate of 0.484 percent.

17 **Sec. 2.** RCW 82.04.270 and 1998 c 343 s 2 and 1999 c . . . s 1  
18 (section 1 of this act) are each reenacted to read as follows:

1       Upon every person except persons taxable under RCW 82.04.260(5) or  
2 82.04.272 engaging within this state in the business of making sales at  
3 wholesale; as to such persons the amount of tax with respect to such  
4 business shall be equal to the gross proceeds of sales of such business  
5 multiplied by the rate of 0.484 percent.

6       **Sec. 3.** RCW 82.04.3651 and 1998 c 336 s 2 are each amended to read  
7 as follows:

8       (1) This chapter does not apply to amounts received by nonprofit  
9 organizations, as defined in subsection (2) of this section, for fund-  
10 raising activities.

11       (2) As used in this section, a "nonprofit organization" means:

12       (a) An organization exempt from tax under section 501(c) (3), (4),  
13 or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c)  
14 (3), (4), or (10));

15       (b) A nonprofit organization that would qualify under (a) of this  
16 subsection except that it is not organized as a nonprofit corporation;  
17 or

18       (c) A nonprofit organization that (~~means [meets]~~) meets all of  
19 the following criteria:

20       (i) The members, stockholders, officers, directors, or trustees of  
21 the organization do not receive any part of the organization's gross  
22 income, except as payment for services rendered;

23       (ii) The compensation received by any person for services rendered  
24 to the organization does not exceed an amount reasonable under the  
25 circumstances; and

26       (iii) The activities of the organization do not include a  
27 substantial amount of political activity, including but not limited to  
28 influencing legislation and participation in any campaign on behalf of  
29 any candidate for political office.

30       (3) As used in this section, the term "fund-raising activity" means  
31 (~~both activities involving the direct solicitation~~) either accepting  
32 contributions of money or other property (~~and~~) or activities  
33 involving the anticipated exchange of goods or services for money  
34 between the soliciting organization and the organization or person  
35 solicited, for the purpose of furthering the goals of the nonprofit  
36 organization. "Fund-raising activity" does not include the operation  
37 of a regular place of business in which sales are made during regular  
38 hours such as a bookstore, thrift shop, restaurant, or similar business

1 or the operation of a regular place of business from which services are  
2 provided or performed during regular hours such as the provision of  
3 retail, personal, or professional services.

4 **Sec. 4.** RCW 82.08.02567 and 1998 c 309 s 1 are each amended to  
5 read as follows:

6 (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
7 machinery and equipment used directly in generating electricity using  
8 wind, sun, or landfill gas as the principal source of power, or to  
9 sales of or charges made for labor and services rendered in respect to  
10 installing such machinery and equipment, but only if the purchaser  
11 develops with such machinery, equipment, and labor a facility capable  
12 of generating not less than two hundred kilowatts of electricity and  
13 provides the seller with an exemption certificate in a form and manner  
14 prescribed by the department by rule(~~(, and the purchaser provides the~~  
15 ~~department with a duplicate of the certificate or a summary of exempt~~  
16 ~~sales as the department may require)~~). The seller shall retain a copy  
17 of the certificate for the seller's files.

18 (2) For purposes of this section and RCW 82.12.02567:

19 (a) "Landfill gas" means biomass fuel of the type qualified for  
20 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.  
21 "Landfill" means a landfill as defined under RCW 70.95.030;

22 (b) "Machinery and equipment" means industrial fixtures, devices,  
23 and support facilities that are integral and necessary to the  
24 generation of electricity using wind, sun, or landfill gas as the  
25 principal source of power;

26 (c) "Machinery and equipment" does not include: (i) Hand-powered  
27 tools; (ii) property with a useful life of less than one year; (iii)  
28 repair parts required to restore machinery and equipment to normal  
29 working order; (iv) replacement parts that do not increase  
30 productivity, improve efficiency, or extend the useful life of  
31 machinery and equipment; (v) buildings; or (vi) building fixtures that  
32 are not integral and necessary to the generation of electricity that  
33 are permanently affixed to and become a physical part of a building;

34 (d) Machinery and equipment is "used directly" in generating  
35 electricity by wind energy, solar, or landfill gas power if it provides  
36 any part of the process that captures the energy of the wind, sun, or  
37 landfill gas, converts that energy to electricity, and transforms or

1 transmits that electricity for entry into electric transmission and  
2 distribution systems.

3 (3) This section expires June 30, 2005.

4 **Sec. 5.** RCW 82.08.0266 and 1980 c 37 s 33 are each amended to read  
5 as follows:

6 The tax levied by RCW 82.08.020 shall not apply to sales to  
7 nonresidents of this state for use outside of this state of watercraft  
8 requiring coast guard registration or registration by the state of  
9 principal use according to the Federal Boating Act of 1958, even though  
10 delivery be made within this state, but only when (1) the watercraft  
11 will not be used within this state for more than forty-five days and  
12 (2) an appropriate exemption certificate supported by identification  
13 ascertaining residence as ~~((provided))~~ required by the department of  
14 revenue and signed by the purchaser or his agent establishing the fact  
15 that the purchaser is a nonresident and that the watercraft is for use  
16 outside of this state, ~~((one))~~ a copy ~~((to be filed with the department~~  
17 ~~of revenue with the regular report and a duplicate to be))~~ of which  
18 shall be retained by the dealer.

19 **Sec. 6.** RCW 82.08.02665 and 1993 c 119 s 1 are each amended to  
20 read as follows:

21 The tax levied by RCW 82.08.020 does not apply to sales of vessels  
22 to residents of foreign countries for use outside of this state, even  
23 though delivery is made within this state, but only if (1) the vessel  
24 will not be used within this state for more than forty-five days and  
25 (2) an appropriate exemption certificate supported by identification as  
26 ~~((provided))~~ required by ~~((and filed with))~~ the department of revenue  
27 and signed by the purchaser or the purchaser's agent establishes the  
28 fact that the purchaser is a resident of a foreign country and that the  
29 vessel is for use outside of this state. ~~((One))~~ A copy of the  
30 exemption certificate ~~((is to be filed with the department of revenue~~  
31 ~~and a duplicate))~~ is to be retained by the dealer.

32 As used in this section, "vessel" means every watercraft used or  
33 capable of being used as a means of transportation on the water, other  
34 than a seaplane.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.12 RCW  
36 to read as follows:

1 The provisions of this chapter shall not apply in respect to the  
2 use of amusement and recreation services by a nonprofit youth  
3 organization, as defined in RCW 82.04.4271, to members of the  
4 organization.

5 **Sec. 8.** RCW 82.04.355 and 1979 c 111 s 17 are each amended to read  
6 as follows:

7 This chapter does not apply to any funds received in the course of  
8 commuter ride sharing or ride sharing for ~~((the elderly and the  
9 handicapped))~~ persons with special transportation needs in accordance  
10 with RCW 46.74.010.

11 **Sec. 9.** RCW 82.12.020 and 1998 c 332 s 7 are each amended to read  
12 as follows:

13 (1) There is hereby levied and there shall be collected from every  
14 person in this state a tax or excise for the privilege of using within  
15 this state as a consumer: (a) Any article of tangible personal  
16 property purchased at retail, or acquired by lease, gift, repossession,  
17 or bailment, or extracted or produced or manufactured by the person so  
18 using the same, or otherwise furnished to a person engaged in any  
19 business taxable under RCW 82.04.280 (2) or (7); or (b) any canned  
20 software, regardless of the method of delivery, but excluding canned  
21 software that is either provided free of charge or is provided for  
22 temporary use in viewing information, or both ~~((; or (c) any amusement  
23 or recreation service defined as a retail sale in RCW  
24 82.04.050(3)(a)))~~.

25 (2) This tax shall apply to the use of every service defined as a  
26 retail sale in RCW 82.04.050(3)(a) and the use of every article of  
27 tangible personal property, including property acquired at a casual or  
28 isolated sale, and including byproducts used by the manufacturer  
29 thereof, except as hereinafter provided, irrespective of whether the  
30 article or similar articles are manufactured or are available for  
31 purchase within this state.

32 (3) Except as provided in RCW 82.12.0252, payment by one purchaser  
33 or user of tangible personal property or service of the tax imposed by  
34 chapter 82.08 or 82.12 RCW shall not have the effect of exempting any  
35 other purchaser or user of the same property or service from the taxes  
36 imposed by such chapters.

1 (4) The tax shall be levied and collected in an amount equal to the  
2 value of the article used by the taxpayer multiplied by the rate in  
3 effect for the retail sales tax under RCW 82.08.020.

4 **Sec. 10.** RCW 82.12.02567 and 1998 c 309 s 2 are each amended to  
5 read as follows:

6 (1) The provisions of this chapter shall not apply with respect to  
7 machinery and equipment used directly in generating not less than two  
8 hundred kilowatts of electricity using wind, sun, or landfill gas as  
9 the principal source of power(~~(, but only when the user provides the~~  
10 ~~department with:~~

11 ~~(a) An exemption certificate in a form and manner prescribed by the~~  
12 ~~department within sixty days of the first use of such machinery and~~  
13 ~~equipment in this state; or~~

14 ~~(b) An annual summary listing the machinery and equipment by~~  
15 ~~January 31st of the year following the calendar year in which the~~  
16 ~~machinery and equipment is first used in this state)).~~

17 (2) The definitions in RCW 82.08.02567 apply to this section.

18 (3) This section expires June 30, 2005.

19 **Sec. 11.** RCW 82.12.0282 and 1996 c 88 s 4 are each amended to read  
20 as follows:

21 The tax imposed by this chapter shall not apply with respect to the  
22 use of passenger motor vehicles used as ride-sharing vehicles(~~(, as~~  
23 ~~defined in RCW 46.74.010(3),~~) by not less than five persons, including  
24 the driver, with a gross vehicle weight not to exceed 10,000 pounds  
25 where the primary usage is for commuter ride-sharing, as defined in RCW  
26 46.74.010(~~((1))~~), by not less than four persons including the driver  
27 when at least two of those persons are confined to wheelchairs when  
28 riding, or passenger motor vehicles where the primary usage is for  
29 ride-sharing for (~~(the elderly and the handicapped))~~) persons with  
30 special transportation needs, as defined in RCW 46.74.010(~~((2))~~), if  
31 the vehicles are exempt under RCW 82.44.015 for thirty-six consecutive  
32 months beginning within thirty days of application for exemption under  
33 this section. If used as a ride-sharing vehicle for less than thirty-  
34 six consecutive months, the registered owner of one of these vehicles  
35 shall notify the department of revenue upon termination of primary use  
36 of the vehicle as a ride-sharing vehicle and is liable for the tax  
37 imposed by this chapter.

1 To qualify for the tax exemption, those passenger motor vehicles  
2 with five or six passengers, including the driver, used for commuter  
3 ride-sharing, must be operated either within the state's eight largest  
4 counties that are required to develop commute trip reduction plans as  
5 directed by chapter 70.94 RCW or in other counties, or cities and towns  
6 within those counties, that elect to adopt and implement a commute trip  
7 reduction plan. Additionally at least one of the following conditions  
8 must apply: (1) The vehicle must be operated by a public  
9 transportation agency for the general public; or (2) the vehicle must  
10 be used by a major employer, as defined in RCW 70.94.524 as an element  
11 of its commute trip reduction program for their employees; or (3) the  
12 vehicle must be owned and operated by individual employees and must be  
13 registered either with the employer as part of its commute trip  
14 reduction program or with a public transportation agency serving the  
15 area where the employees live or work. Individual employee owned and  
16 operated motor vehicles will require certification that the vehicle is  
17 registered with a major employer or a public transportation agency.  
18 Major employers who own and operate motor vehicles for their employees  
19 must certify that the commuter ride-sharing arrangement conforms to a  
20 carpool/vanpool element contained within their commute trip reduction  
21 program.

22 **Sec. 12.** RCW 82.16.047 and 1979 c 111 s 18 are each amended to  
23 read as follows:

24 This chapter does not apply to any funds received in the course of  
25 commuter ride sharing or ride sharing for ~~((the elderly and the  
26 handicapped in accordance with RCW 46.74.010))~~ persons with special  
27 transportation needs in accordance with RCW 46.74.010.

28 **Sec. 13.** RCW 82.32.060 and 1997 c 157 s 2 are each amended to read  
29 as follows:

30 (1) If, upon receipt of an application by a taxpayer for a refund  
31 or for an audit of the taxpayer's records, or upon an examination of  
32 the returns or records of any taxpayer, it is determined by the  
33 department that within the statutory period for assessment of taxes,  
34 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,  
35 penalty, or interest has been paid in excess of that properly due, the  
36 excess amount paid within, or attributable to, such period shall be  
37 credited to the taxpayer's account or shall be refunded to the

1 taxpayer, at the taxpayer's option. Except as provided in subsections  
2 (2) and (3) of this section, no refund or credit shall be made for  
3 taxes, penalties, or interest paid more than four years prior to the  
4 beginning of the calendar year in which the refund application is made  
5 or examination of records is completed.

6 (2) The execution of a written waiver under RCW 82.32.050 or  
7 82.32.100 shall extend the time for making a refund or credit of any  
8 taxes paid during, or attributable to, the years covered by the waiver  
9 if, prior to the expiration of the waiver period, an application for  
10 refund of such taxes is made by the taxpayer or the department  
11 discovers a refund or credit is due.

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

23 (4) Any such refunds shall be made by means of vouchers approved by  
24 the department and by the issuance of state warrants drawn upon and  
25 payable from such funds as the legislature may provide. However,  
26 taxpayers who are required to pay taxes by electronic funds transfer  
27 under RCW 82.32.080 shall have any refunds paid by electronic funds  
28 transfer.

29 (5) Any judgment for which a recovery is granted by any court of  
30 competent jurisdiction, not appealed from, for tax, penalties, and  
31 interest which were paid by the taxpayer, and costs, in a suit by any  
32 taxpayer shall be paid in the same manner, as provided in subsection  
33 (4) of this section, upon the filing with the department of a certified  
34 copy of the order or judgment of the court.

35 (a) Interest at the rate of three percent per annum shall be  
36 allowed by the department and by any court on the amount of any refund,  
37 credit, or other recovery allowed to a taxpayer for taxes, penalties,  
38 or interest paid by the taxpayer before January 1, 1992. This rate of  
39 interest shall apply for all interest allowed through December 31,



1 1998. Interest allowed after December 31, 1998, shall be computed at  
2 the rate as computed under RCW 82.32.050(2). The rate so computed  
3 shall be adjusted on the first day of January of each year for use in  
4 computing interest for that calendar year.

5 (b) For refunds or credits of amounts paid or other recovery  
6 allowed to a taxpayer after December 31, 1991, the rate of interest  
7 shall be the rate as computed for assessments under RCW 82.32.050(2)  
8 less one percent. This rate of interest shall apply for all interest  
9 allowed through December 31, 1998. Interest allowed after December 31,  
10 1998, shall be computed at the rate as computed under RCW 82.32.050(2).  
11 The rate so computed shall be adjusted on the first day of January of  
12 each year for use in computing interest for that calendar year.

13 **Sec. 14.** RCW 82.32.070 and 1997 c 54 s 4 are each amended to read  
14 as follows:

15 (1)~~((a))~~ Every person liable for any fee or tax imposed by  
16 chapters 82.04 through 82.27 RCW shall keep and preserve, for a period  
17 of five years, suitable records as may be necessary to determine the  
18 amount of any tax for which he may be liable, which records shall  
19 include copies of all federal income tax and state tax returns and  
20 reports made by him. All his books, records, and invoices shall be  
21 open for examination at any time by the department of revenue. In the  
22 case of an out-of-state person or concern which does not keep the  
23 necessary books and records within this state, it shall be sufficient  
24 if it produces within the state such books and records as shall be  
25 required by the department of revenue, or permits the examination by an  
26 agent authorized or designated by the department of revenue at the  
27 place where such books and records are kept. Any person who fails to  
28 comply with the requirements of this section shall be forever barred  
29 from questioning, in any court action or proceedings, the correctness  
30 of any assessment of taxes made by the department of revenue based upon  
31 any period for which such books, records, and invoices have not been so  
32 kept and preserved.

33 ~~((b))~~ (2) A person liable for any fee or tax imposed by chapters  
34 82.04 through 82.27 RCW who contracts with another person or entity for  
35 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a  
36 record of the unified business identifier account number for the person  
37 or entity performing the work. Failure to obtain or maintain the  
38 record is subject to RCW 39.06.010 and to a penalty determined by the

1 director, but not to exceed two hundred fifty dollars. The department  
2 shall notify the taxpayer and collect the penalty in the same manner as  
3 penalties under RCW 82.32.100.

4 ~~((2) Any person claiming a credit against the tax imposed by  
5 chapter 82.04 RCW by reason of the provisions of RCW 82.04.435 shall  
6 keep and preserve until the claim has been verified or allowed by the  
7 department of revenue sufficient books, records and invoices to prove  
8 the right to and amount of such claim for credit, and no such claim  
9 shall be allowed by the department of revenue unless such books,  
10 records and invoices have been kept and preserved.))~~

11 **Sec. 15.** RCW 82.35.080 and 1996 c 186 s 522 are each amended to  
12 read as follows:

13 (1) Except as provided in subsection (2) of this section, the  
14 department shall revoke any certificate issued under this chapter if it  
15 finds that any of the following have occurred with respect to the  
16 certificate:

17 (a) The certificate was obtained by fraud or deliberate  
18 misrepresentation;

19 (b) The certificate was obtained through the use of inaccurate data  
20 but without any intention to commit fraud or misrepresentation;

21 (c) The facility was constructed or operated in violation of any  
22 provision of this chapter or provision imposed by the department as a  
23 condition of certification; or

24 (d) The cogeneration facility is no longer capable of being  
25 operated for the primary purpose of cogeneration.

26 (2) If the department finds that there are few inaccuracies under  
27 subsection (1)(b) of this section and that cumulatively they are  
28 insignificant in terms of the cost or operation of the facility or that  
29 the inaccurate data is not attributable to carelessness or negligence  
30 and its inclusion was reasonable under the circumstances, then the  
31 department may provide for the continuance of the certificate and  
32 whatever modification it considers in the public interest.

33 (3) Any person, firm, corporation, or organization that obtains a  
34 certificate revoked under this section shall be liable for the total  
35 amount of money saved by claiming the credits and exemptions provided  
36 under this chapter ~~((and RCW 84.36.485))~~. The total amount of the  
37 credits shall be collected as delinquent business and occupation taxes,  
38 and the total of the exemptions shall be collected and distributed as

1 delinquent property taxes. Interest shall accrue on the amounts of the  
2 credits and exemptions from the date the taxes were otherwise due.

3 (4) The department of community, trade, and economic development  
4 shall provide technical assistance to the department in carrying out  
5 its responsibilities under this section.

6 **Sec. 16.** RCW 84.36.041 and 1998 c 311 s 20 are each amended to  
7 read as follows:

8 (1) All real and personal property used by a nonprofit home for the  
9 aging that is reasonably necessary for the purposes of the home is  
10 exempt from taxation if the benefit of the exemption inures to the home  
11 and:

12 (a) At least fifty percent of the occupied dwelling units in the  
13 home are occupied by eligible residents; or

14 (b) The home is subsidized under a federal department of housing  
15 and urban development program. The department of revenue shall provide  
16 by rule a definition of homes eligible for exemption under this  
17 subsection (b), consistent with the purposes of this section.

18 (2) All real and personal property used by a nonprofit home for the  
19 aging that is reasonably necessary for the purposes of the home is  
20 exempt from taxation if the benefit of the exemption inures to the home  
21 and the construction, rehabilitation, acquisition, or refinancing of  
22 the home is financed under a program using bonds exempt from federal  
23 income tax if at least seventy-five percent of the total amount  
24 financed uses the tax exempt bonds and the financing program requires  
25 the home to reserve a percentage of all dwelling units so financed for  
26 low-income residents. The initial term of the exemption under this  
27 subsection shall equal the term of the tax exempt bond used in  
28 connection with the financing program, or the term of the requirement  
29 to reserve dwelling units for low-income residents, whichever is  
30 shorter. If the financing program involves less than the entire home,  
31 only those dwelling units included in the financing program are  
32 eligible for total exemption. The department of revenue shall provide  
33 by rule the requirements for monitoring compliance with the provisions  
34 of this subsection and the requirements for exemption including:

35 (a) The number or percentage of dwelling units required to be  
36 occupied by low-income residents, and a definition of low income;

37 (b) The type and character of the dwelling units, whether  
38 independent units or otherwise; and

1 (c) Any particular requirements for continuing care retirement  
2 communities.

3 (3) A home for the aging is eligible for a partial exemption on the  
4 real property and a total exemption for the home's personal property if  
5 the home does not meet the requirements of subsection (1) of this  
6 section because fewer than fifty percent of the occupied dwelling units  
7 are occupied by eligible residents, as follows:

8 (a) A partial exemption shall be allowed for each dwelling unit in  
9 a home occupied by a resident requiring assistance with activities of  
10 daily living.

11 (b) A partial exemption shall be allowed for each dwelling unit in  
12 a home occupied by an eligible resident.

13 (c) A partial exemption shall be allowed for an area jointly used  
14 by a home for the aging and by a nonprofit organization, association,  
15 or corporation currently exempt from property taxation under one of the  
16 other provisions of this chapter. The shared area must be reasonably  
17 necessary for the purposes of the nonprofit organization, association,  
18 or corporation exempt from property taxation under one of the other  
19 provisions of this chapter, such as kitchen, dining, and laundry areas.

20 (d) The amount of exemption shall be calculated by multiplying the  
21 assessed value of the property reasonably necessary for the purposes of  
22 the home, less the assessed value of any area exempt under (c) of this  
23 subsection, by a fraction. The numerator of the fraction is the number  
24 of dwelling units occupied by eligible residents and by residents  
25 requiring assistance with activities of daily living. The denominator  
26 of the fraction is the total number of occupied dwelling units as of  
27 January 1st of the year for which exemption is claimed.

28 (4) To be exempt under this section, the property must be used  
29 exclusively for the purposes for which the exemption is granted, except  
30 as provided in RCW 84.36.805.

31 (5) A home for the aging is exempt from taxation only if the  
32 organization operating the home is exempt from income tax under section  
33 501(c) of the federal internal revenue code as existing on January 1,  
34 1989, or such subsequent date as the director may provide by rule  
35 consistent with the purposes of this section.

36 (6) In order for the home to be eligible for exemption under  
37 subsections (1)(a) and ~~((+2))~~ (3)(b) of this section, each eligible  
38 resident of a home for the aging shall submit an income verification  
39 form to the county assessor by July 1st of the assessment year in which

1 the application for exemption is (~~made~~) filed. The income  
2 verification form shall be prescribed and furnished by the department  
3 of revenue. An eligible resident who has filed a form for a previous  
4 year need not file a new form until there is a change in status  
5 affecting the person's eligibility.

6 (7) In determining the assessed value of a home for the aging for  
7 purposes of the partial exemption provided by subsection (3) of this  
8 section, the assessor shall apply the computation method provided by  
9 RCW 84.34.060 and shall consider only the use to which such property is  
10 applied during the years for which such partial exemptions are  
11 available and shall not consider potential uses of such property.

12 (8) As used in this section:

13 (a) "Eligible resident" means a person who:

14 (i) Occupied the dwelling unit as a principal place of residence as  
15 of January 1st of the year for which the exemption is (~~elaimed~~)  
16 filed. Confinement of the person to a hospital or nursing home does  
17 not disqualify the claim of exemption if the dwelling unit is  
18 temporarily unoccupied or if the dwelling unit is occupied by a spouse,  
19 a person financially dependent on the claimant for support, or both;  
20 and

21 (ii) Is sixty-one years of age or older on December 31st of the  
22 year in which the exemption claim is filed, or is, at the time of  
23 filing, retired from regular gainful employment by reason of physical  
24 disability. Any surviving spouse of a person who was receiving an  
25 exemption at the time of the person's death shall qualify if the  
26 surviving spouse is fifty-seven years of age or older and otherwise  
27 meets the requirements of this subsection; and

28 (iii) Has a combined disposable income of no more than the greater  
29 of twenty-two thousand dollars or eighty percent of the median income  
30 adjusted for family size as most recently determined by the federal  
31 department of housing and urban development for the county in which the  
32 person resides. For the purposes of determining eligibility under this  
33 section, a "cotenant" means a person who resides with an eligible  
34 resident and who shares personal financial resources with the eligible  
35 resident.

36 (b) "Combined disposable income" means the disposable income of the  
37 person submitting the income verification form, plus the disposable  
38 income of his or her spouse, and the disposable income of each cotenant  
39 occupying the dwelling unit for the preceding calendar year, less

1 amounts paid by the person submitting the income verification form or  
2 his or her spouse or cotenant during the previous year for the  
3 treatment or care of either person received in the dwelling unit or in  
4 a nursing home. If the person submitting the income verification form  
5 was retired for two months or more of the preceding year, the combined  
6 disposable income of such person shall be calculated by multiplying the  
7 average monthly combined disposable income of such person during the  
8 months such person was retired by twelve. If the income of the person  
9 submitting the income verification form is reduced for two or more  
10 months of the preceding year by reason of the death of the person's  
11 spouse, the combined disposable income of such person shall be  
12 calculated by multiplying the average monthly combined disposable  
13 income of such person after the death of the spouse by twelve.

14 (c) "Disposable income" means adjusted gross income as defined in  
15 the federal internal revenue code, as amended prior to January 1, 1989,  
16 or such subsequent date as the director may provide by rule consistent  
17 with the purpose of this section, plus all of the following items to  
18 the extent they are not included in or have been deducted from adjusted  
19 gross income:

20 (i) Capital gains, other than (~~nonrecognized gain on the sale of~~  
21 ~~a principal residence under section 1034 of the federal internal~~  
22 ~~revenue code, or~~) gain excluded from income under section 121 of the  
23 federal internal revenue code to the extent it is reinvested in a new  
24 principal residence;

25 (ii) Amounts deducted for loss;

26 (iii) Amounts deducted for depreciation;

27 (iv) Pension and annuity receipts;

28 (v) Military pay and benefits other than attendant-care and  
29 medical-aid payments;

30 (vi) Veterans benefits other than attendant-care and medical-aid  
31 payments;

32 (vii) Federal social security act and railroad retirement benefits;

33 (viii) Dividend receipts; and

34 (ix) Interest received on state and municipal bonds.

35 (d) "Resident requiring assistance with activities of daily living"  
36 means a person who requires significant assistance with the activities  
37 of daily living and who would be at risk of nursing home placement  
38 without this assistance.

1 (e) "Home for the aging" means a residential housing facility that  
2 (i) provides a housing arrangement chosen voluntarily by the resident,  
3 the resident's guardian or conservator, or another responsible person;  
4 (ii) has only residents who are at least sixty-one years of age or who  
5 have needs for care generally compatible with persons who are at least  
6 sixty-one years of age; and (iii) provides varying levels of care and  
7 supervision, as agreed to at the time of admission or as determined  
8 necessary at subsequent times of reappraisal.

9 (9) A for-profit home for the aging that converts to nonprofit  
10 status after June 11, 1992, and would otherwise be eligible for tax  
11 exemption under this section may not receive the tax exemption until  
12 five years have elapsed since the conversion. The exemption shall then  
13 be ratably granted over the next five years.

14 **Sec. 17.** RCW 84.36.350 and 1975 1st ex.s. c 3 s 1 are each amended  
15 to read as follows:

16 (1) The following property shall be exempt from taxation:

17 (a) Real or personal property owned and used by a nonprofit  
18 corporation in connection with the operation of a sheltered workshop  
19 for handicapped persons, and used primarily in connection with the  
20 manufacturing and the handling, sale or distribution of goods  
21 constructed, processed, or repaired in such workshops or centers; and

22 (b) Inventory owned by a sheltered workshop for sale or lease by  
23 the sheltered workshop or to be furnished under a contract of service,  
24 including raw materials, work in process, and finished products.

25 (2) Unless a different meaning is plainly required by the context,  
26 "sheltered workshop" means a rehabilitation facility, or that part of  
27 a rehabilitation facility operated by a nonprofit corporation, where  
28 any manufacture or handiwork is carried on and operated for the primary  
29 purpose of: (a) Providing gainful employment or rehabilitation  
30 services to the handicapped as an interim step in the rehabilitation  
31 process for those who cannot be readily absorbed in the competitive  
32 labor market or during such time as employment opportunities for them  
33 in the competitive labor market do not exist; or (b) providing  
34 evaluation and work adjustment services for handicapped individuals.

35 **Sec. 18.** RCW 84.36.383 and 1995 1st sp.s. c 8 s 2 are each amended  
36 to read as follows:

1 As used in RCW 84.36.381 through 84.36.389, except where the  
2 context clearly indicates a different meaning:

3 (1) The term "residence" (~~((shall))~~) means a single family dwelling  
4 unit whether such unit be separate or part of a multiunit dwelling,  
5 including the land on which such dwelling stands not to exceed one  
6 acre. The term shall also include a share ownership in a cooperative  
7 housing association, corporation, or partnership if the person claiming  
8 exemption can establish that his or her share represents the specific  
9 unit or portion of such structure in which he or she resides. The term  
10 shall also include a single family dwelling situated upon lands the fee  
11 of which is vested in the United States or any instrumentality thereof  
12 including an Indian tribe or in the state of Washington, and  
13 notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a  
14 residence shall be deemed real property.

15 (2) The term "real property" shall also include a mobile home which  
16 has substantially lost its identity as a mobile unit by virtue of its  
17 being fixed in location upon land owned or leased by the owner of the  
18 mobile home and placed on a foundation (posts or blocks) with fixed  
19 pipe, connections with sewer, water, or other utilities(~~((:—PROVIDED,~~  
20 ~~That))~~). A mobile home located on land leased by the owner of the  
21 mobile home (~~((shall be))~~) is subject, for tax billing, payment, and  
22 collection purposes, only to the personal property provisions of  
23 chapter 84.56 RCW and RCW 84.60.040.

24 (3) "Department" (~~((shall))~~) means the state department of revenue.

25 (4) "Combined disposable income" means the disposable income of the  
26 person claiming the exemption, plus the disposable income of his or her  
27 spouse, and the disposable income of each cotenant occupying the  
28 residence for the assessment year, less amounts paid by the person  
29 claiming the exemption or his or her spouse during the assessment year  
30 for:

31 (a) Drugs supplied by prescription of a medical practitioner  
32 authorized by the laws of this state or another jurisdiction to issue  
33 prescriptions; and

34 (b) The treatment or care of either person received in the home or  
35 in a nursing home.

36 (5) "Disposable income" means adjusted gross income as defined in  
37 the federal internal revenue code, as amended prior to January 1, 1989,  
38 or such subsequent date as the director may provide by rule consistent  
39 with the purpose of this section, plus all of the following items to



1 the extent they are not included in or have been deducted from adjusted  
2 gross income:

3 (a) Capital gains, other than ((~~nonrecognized gain on the sale of~~  
4 ~~a principal residence under section 1034 of the federal internal~~  
5 ~~revenue code, or~~)) gain excluded from income under section 121 of the  
6 federal internal revenue code to the extent it is reinvested in a new  
7 principal residence;

8 (b) Amounts deducted for loss;

9 (c) Amounts deducted for depreciation;

10 (d) Pension and annuity receipts;

11 (e) Military pay and benefits other than attendant-care and  
12 medical-aid payments;

13 (f) Veterans benefits other than attendant-care and medical-aid  
14 payments;

15 (g) Federal social security act and railroad retirement benefits;

16 (h) Dividend receipts; and

17 (i) Interest received on state and municipal bonds.

18 (6) "Cotenant" means a person who resides with the person claiming  
19 the exemption and who has an ownership interest in the residence.

20 **Sec. 19.** RCW 83.100.020 and 1998 c 292 s 401 are each amended to  
21 read as follows:

22 As used in this chapter:

23 (1) "Decedent" means a deceased individual;

24 (2) "Department" means the department of revenue, the director of  
25 that department, or any employee of the department exercising authority  
26 lawfully delegated to him by the director;

27 (3) "Federal credit" means (a) for a transfer, the maximum amount  
28 of the credit for state taxes allowed by section 2011 of the Internal  
29 Revenue Code; and (b) for a generation-skipping transfer, the maximum  
30 amount of the credit for state taxes allowed by section 2604 of the  
31 Internal Revenue Code;

32 (4) "Federal return" means any tax return required by chapter 11 or  
33 13 of the Internal Revenue Code;

34 (5) "Federal tax" means (a) for a transfer, a tax under chapter 11  
35 of the Internal Revenue Code; and (b) for a generation-skipping  
36 transfer, the tax under chapter 13 of the Internal Revenue Code;

1 (6) "Generation-skipping transfer" means a "generation-skipping  
2 transfer" as defined and used in section 2611 of the Internal Revenue  
3 Code;

4 (7) "Gross estate" means "gross estate" as defined and used in  
5 section 2031 of the Internal Revenue Code;

6 (8) "Nonresident" means a decedent who was domiciled outside  
7 Washington at his death;

8 (9) "Person" means any individual, estate, trust, receiver,  
9 cooperative association, club, corporation, company, firm, partnership,  
10 joint venture, syndicate, or other entity and, to the extent permitted  
11 by law, any federal, state, or other governmental unit or subdivision  
12 or agency, department, or instrumentality thereof;

13 (10) "Person required to file the federal return" means any person  
14 required to file a return required by chapter 11 or 13 of the Internal  
15 Revenue Code, such as the personal representative of an estate; or a  
16 transferor, trustee, or beneficiary of a generation-skipping transfer;  
17 or a qualified heir with respect to qualified real property, as defined  
18 and used in section 2032A(c) of the Internal Revenue Code;

19 (11) "Property" means (a) for a transfer, property included in the  
20 gross estate; and (b) for a generation-skipping transfer, all real and  
21 personal property subject to the federal tax;

22 (12) "Resident" means a decedent who was domiciled in Washington at  
23 time of death;

24 (13) "Transfer" means "transfer" as used in section 2001 of the  
25 Internal Revenue Code, or a disposition or cessation of qualified use  
26 as defined and used in section 2032A(c) of the Internal Revenue Code;

27 (14) "Trust" means "trust" under Washington law and any arrangement  
28 described in section 2652 of the Internal Revenue Code; and

29 (15) "Internal Revenue Code" means, for the purposes of this  
30 chapter and RCW 83.110.010, the United States Internal Revenue Code of  
31 1986, as amended or renumbered on January 1, (~~1998~~) 1999.

32 **Sec. 20.** RCW 11.02.005 and 1998 c 292 s 117 are each amended to  
33 read as follows:

34 When used in this title, unless otherwise required from the  
35 context:

36 (1) "Personal representative" includes executor, administrator,  
37 special administrator, and guardian or limited guardian and special  
38 representative.

1 (2) "Net estate" refers to the real and personal property of a  
2 decedent exclusive of homestead rights, exempt property, the family  
3 allowance and enforceable claims against, and debts of, the deceased or  
4 the estate.

5 (3) "Representation" refers to a method of determining distribution  
6 in which the takers are in unequal degrees of kinship with respect to  
7 the intestate, and is accomplished as follows: After first determining  
8 who, of those entitled to share in the estate, are in the nearest  
9 degree of kinship, the estate is divided into equal shares, the number  
10 of shares being the sum of the number of persons who survive the  
11 intestate who are in the nearest degree of kinship and the number of  
12 persons in the same degree of kinship who died before the intestate but  
13 who left issue surviving the intestate; each share of a deceased person  
14 in the nearest degree shall be divided among those of the deceased  
15 person's issue who survive the intestate and have no ancestor then  
16 living who is in the line of relationship between them and the  
17 intestate, those more remote in degree taking together the share which  
18 their ancestor would have taken had he or she survived the intestate.  
19 Posthumous children are considered as living at the death of their  
20 parent.

21 (4) "Issue" includes all the lawful lineal descendants of the  
22 ancestor and all lawfully adopted children.

23 (5) "Degree of kinship" means the degree of kinship as computed  
24 according to the rules of the civil law; that is, by counting upward  
25 from the intestate to the nearest common ancestor and then downward to  
26 the relative, the degree of kinship being the sum of these two counts.

27 (6) "Heirs" denotes those persons, including the surviving spouse,  
28 who are entitled under the statutes of intestate succession to the real  
29 and personal property of a decedent on the decedent's death intestate.

30 (7) "Real estate" includes, except as otherwise specifically  
31 provided herein, all lands, tenements, and hereditaments, and all  
32 rights thereto, and all interest therein possessed and claimed in fee  
33 simple, or for the life of a third person.

34 (8) "Will" means an instrument validly executed as required by RCW  
35 11.12.020.

36 (9) "Codicil" means a will that modifies or partially revokes an  
37 existing earlier will. A codicil need not refer to or be attached to  
38 the earlier will.

1 (10) "Guardian" or "limited guardian" means a personal  
2 representative of the person or estate of an incompetent or disabled  
3 person as defined in RCW 11.88.010 and the term may be used in lieu of  
4 "personal representative" wherever required by context.

5 (11) "Administrator" means a personal representative of the estate  
6 of a decedent and the term may be used in lieu of "personal  
7 representative" wherever required by context.

8 (12) "Executor" means a personal representative of the estate of a  
9 decedent appointed by will and the term may be used in lieu of  
10 "personal representative" wherever required by context.

11 (13) "Special administrator" means a personal representative of the  
12 estate of a decedent appointed for limited purposes and the term may be  
13 used in lieu of "personal representative" wherever required by context.

14 (14) "Trustee" means an original, added, or successor trustee and  
15 includes the state, or any agency thereof, when it is acting as the  
16 trustee of a trust to which chapter 11.98 RCW applies.

17 (15) "Nonprobate asset" means those rights and interests of a  
18 person having beneficial ownership of an asset that pass on the  
19 person's death under a written instrument or arrangement other than the  
20 person's will. "Nonprobate asset" includes, but is not limited to, a  
21 right or interest passing under a joint tenancy with right of  
22 survivorship, joint bank account with right of survivorship, payable on  
23 death or trust bank account, transfer on death security or security  
24 account, deed or conveyance if possession has been postponed until the  
25 death of the person, trust of which the person is grantor and that  
26 becomes effective or irrevocable only upon the person's death,  
27 community property agreement, individual retirement account or bond, or  
28 note or other contract the payment or performance of which is affected  
29 by the death of the person. "Nonprobate asset" does not include: A  
30 payable-on-death provision of a life insurance policy, annuity, or  
31 other similar contract, or of an employee benefit plan; a right or  
32 interest passing by descent and distribution under chapter 11.04 RCW;  
33 a right or interest if, before death, the person has irrevocably  
34 transferred the right or interest, the person has waived the power to  
35 transfer it or, in the case of contractual arrangement, the person has  
36 waived the unilateral right to rescind or modify the arrangement; or a  
37 right or interest held by the person solely in a fiduciary capacity.  
38 For the definition of "nonprobate asset" relating to revocation of a  
39 provision for a former spouse upon dissolution of marriage or

1 declaration of invalidity of marriage, RCW 11.07.010(5) applies. For  
2 the definition of "nonprobate asset" relating to revocation of a  
3 provision for a former spouse upon dissolution of marriage or  
4 declaration of invalidity of marriage, see RCW 11.07.010(5). For the  
5 definition of "nonprobate asset" relating to testamentary disposition  
6 of nonprobate assets, see RCW 11.11.010(7).

7 (16) "Internal Revenue Code" means the United States Internal  
8 Revenue Code of 1986, as amended or renumbered on January 1, (~~1998~~)  
9 1999.

10 Words that import the singular number may also be applied to the  
11 plural of persons and things.

12 Words importing the masculine gender only may be extended to  
13 females also.

14 NEW SECTION. **Sec. 21.** The following acts or parts of acts are  
15 each repealed:

16 (1) RCW 84.36.353 (Property owned or used for sheltered workshops  
17 for handicapped--Shelter workshop defined) and 1998 c 311 s 22 & 1970  
18 ex.s. c 81 s 2; and

19 (2) RCW 84.36.485 (Cogeneration facilities--Claims for exemption--  
20 Forms--Verification--Administrative rules) and 1979 ex.s. c 191 s 9.

21 NEW SECTION. **Sec. 22.** Sections 1 and 3 through 21 of this act  
22 take effect August 1, 1999.

23 NEW SECTION. **Sec. 23.** Section 2 of this act takes effect July 1,  
24 2001.

--- END ---