

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1623

Chapter 358, Laws of 1999

56th Legislature
1999 Regular Session

TAX CODE--ADMINISTRATIVE CORRECTIONS

EFFECTIVE DATE: 8/1/99 - Except section 2 which becomes effective on 7/1/2001.

Passed by the House April 19, 1999
Yeas 88 Nays 9

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 12, 1999
Yeas 47 Nays 0

BRAD OWEN
President of the Senate

Approved May 17, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1623** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER

Chief Clerk

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 17, 1999 - 3:24 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1623

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Finance (originally sponsored by Representatives Haigh, Cairnes, Reardon and Thomas; by request of Department of Revenue)

Read first time 03/08/1999.

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 RCW 82.04.270 and 82.04.270;
7 adding a new section to chapter 82.12 RCW; repealing RCW 84.36.353 and
8 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 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~~) soliciting or
32 accepting contributions of money or other property (~~and~~) or
33 activities involving the anticipated exchange of goods or services for
34 money between the soliciting organization and the organization or
35 person solicited, for the purpose of furthering the goals of the
36 nonprofit organization. "Fund-raising activity" does not include the
37 operation of a regular place of business in which sales are made during
38 regular hours such as a bookstore, thrift shop, restaurant, or similar

1 business or the operation of a regular place of business from which
2 services are provided or performed during regular hours such as the
3 provision of retail, personal, or professional services. The sale of
4 used books, used videos, used sound recordings, or similar used
5 information products in a library, as defined in RCW 27.12.010, is not
6 the operation of a regular place of business for the purposes of this
7 section, if the proceeds of the sales are used to support the library.

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

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

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

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

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

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

1 (d) Machinery and equipment is "used directly" in generating
2 electricity by wind energy, solar, or landfill gas power if it provides
3 any part of the process that captures the energy of the wind, sun, or
4 landfill gas, converts that energy to electricity, and transforms or
5 transmits that electricity for entry into electric transmission and
6 distribution systems.

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

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

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

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

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

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

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

6 The provisions of this chapter shall not apply in respect to the
7 use of amusement and recreation services by a nonprofit youth
8 organization, as defined in RCW 82.04.4271, to members of the
9 organization.

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

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

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

18 (1) There is hereby levied and there shall be collected from every
19 person in this state a tax or excise for the privilege of using within
20 this state as a consumer: (a) Any article of tangible personal
21 property purchased at retail, or acquired by lease, gift, repossession,
22 or bailment, or extracted or produced or manufactured by the person so
23 using the same, or otherwise furnished to a person engaged in any
24 business taxable under RCW 82.04.280 (2) or (7); or (b) any canned
25 software, regardless of the method of delivery, but excluding canned
26 software that is either provided free of charge or is provided for
27 temporary use in viewing information, or both ~~((; or (c) any amusement
28 or recreation service defined as a retail sale in RCW
29 82.04.050(3)(a)))~~.

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

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

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

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

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

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

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

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

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

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

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

1 this section. If used as a ride-sharing vehicle for less than thirty-
2 six consecutive months, the registered owner of one of these vehicles
3 shall notify the department of revenue upon termination of primary use
4 of the vehicle as a ride-sharing vehicle and is liable for the tax
5 imposed by this chapter.

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

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

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

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

35 (1) If, upon receipt of an application by a taxpayer for a refund
36 or for an audit of the taxpayer's records, or upon an examination of
37 the returns or records of any taxpayer, it is determined by the

1 department that within the statutory period for assessment of taxes,
2 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,
3 penalty, or interest has been paid in excess of that properly due, the
4 excess amount paid within, or attributable to, such period shall be
5 credited to the taxpayer's account or shall be refunded to the
6 taxpayer, at the taxpayer's option. Except as provided in subsections
7 (2) and (3) of this section, no refund or credit shall be made for
8 taxes, penalties, or interest paid more than four years prior to the
9 beginning of the calendar year in which the refund application is made
10 or examination of records is completed.

11 (2) The execution of a written waiver under RCW 82.32.050 or
12 82.32.100 shall extend the time for making a refund or credit of any
13 taxes paid during, or attributable to, the years covered by the waiver
14 if, prior to the expiration of the waiver period, an application for
15 refund of such taxes is made by the taxpayer or the department
16 discovers a refund or credit is due.

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

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

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

1 (a) Interest at the rate of three percent per annum shall be
2 allowed by the department and by any court on the amount of any refund,
3 credit, or other recovery allowed to a taxpayer for taxes, penalties,
4 or interest paid by the taxpayer before January 1, 1992. This rate of
5 interest shall apply for all interest allowed through December 31,
6 1998. Interest allowed after December 31, 1998, shall be computed at
7 the rate as computed under RCW 82.32.050(2). The rate so computed
8 shall be adjusted on the first day of January of each year for use in
9 computing interest for that calendar year.

10 (b) For refunds or credits of amounts paid or other recovery
11 allowed to a taxpayer after December 31, 1991, the rate of interest
12 shall be the rate as computed for assessments under RCW 82.32.050(2)
13 less one percent. This rate of interest shall apply for all interest
14 allowed through December 31, 1998. Interest allowed after December 31,
15 1998, shall be computed at the rate as computed under RCW 82.32.050(2).
16 The rate so computed shall be adjusted on the first day of January of
17 each year for use in computing interest for that calendar year.

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

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

1 ~~((b))~~ (2) A person liable for any fee or tax imposed by chapters
2 82.04 through 82.27 RCW who contracts with another person or entity for
3 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a
4 record of the unified business identifier account number for the person
5 or entity performing the work. Failure to obtain or maintain the
6 record is subject to RCW 39.06.010 and to a penalty determined by the
7 director, but not to exceed two hundred fifty dollars. The department
8 shall notify the taxpayer and collect the penalty in the same manner as
9 penalties under RCW 82.32.100.

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

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

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

23 (a) The certificate was obtained by fraud or deliberate
24 misrepresentation;

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

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

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

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

1 (3) Any person, firm, corporation, or organization that obtains a
2 certificate revoked under this section shall be liable for the total
3 amount of money saved by claiming the credits and exemptions provided
4 under this chapter (~~and RCW 84.36.485~~). The total amount of the
5 credits shall be collected as delinquent business and occupation taxes,
6 and the total of the exemptions shall be collected and distributed as
7 delinquent property taxes. Interest shall accrue on the amounts of the
8 credits and exemptions from the date the taxes were otherwise due.

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

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

14 (1) All real and personal property used by a nonprofit home for the
15 aging that is reasonably necessary for the purposes of the home is
16 exempt from taxation if the benefit of the exemption inures to the home
17 and:

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

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

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

1 by rule the requirements for monitoring compliance with the provisions
2 of this subsection and the requirements for exemption including:

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

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

7 (c) Any particular requirements for continuing care retirement
8 communities.

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

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

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

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

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

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

37 (5) A home for the aging is exempt from taxation only if the
38 organization operating the home is exempt from income tax under section
39 501(c) of the federal internal revenue code as existing on January 1,

1 1989, or such subsequent date as the director may provide by rule
2 consistent with the purposes of this section.

3 (6) In order for the home to be eligible for exemption under
4 subsections (1)(a) and (~~(2)~~) (3)(b) of this section, each eligible
5 resident of a home for the aging shall submit an income verification
6 form to the county assessor by July 1st of the assessment year in which
7 the application for exemption is (~~made~~) filed. The income
8 verification form shall be prescribed and furnished by the department
9 of revenue. An eligible resident who has filed a form for a previous
10 year need not file a new form until there is a change in status
11 affecting the person's eligibility.

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

18 (8) As used in this section:

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

20 (i) Occupied the dwelling unit as a principal place of residence as
21 of January 1st of the year for which the exemption is (~~claimed~~)
22 filed. Confinement of the person to a hospital or nursing home does
23 not disqualify the claim of exemption if the dwelling unit is
24 temporarily unoccupied or if the dwelling unit is occupied by a spouse,
25 a person financially dependent on the claimant for support, or both;
26 and

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

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

1 resident and who shares personal financial resources with the eligible
2 resident.

3 (b) "Combined disposable income" means the disposable income of the
4 person submitting the income verification form, plus the disposable
5 income of his or her spouse, and the disposable income of each cotenant
6 occupying the dwelling unit for the preceding calendar year, less
7 amounts paid by the person submitting the income verification form or
8 his or her spouse or cotenant during the previous year for the
9 treatment or care of either person received in the dwelling unit or in
10 a nursing home. If the person submitting the income verification form
11 was retired for two months or more of the preceding year, the combined
12 disposable income of such person shall be calculated by multiplying the
13 average monthly combined disposable income of such person during the
14 months such person was retired by twelve. If the income of the person
15 submitting the income verification form is reduced for two or more
16 months of the preceding year by reason of the death of the person's
17 spouse, the combined disposable income of such person shall be
18 calculated by multiplying the average monthly combined disposable
19 income of such person after the death of the spouse by twelve.

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

26 (i) Capital gains, other than (~~nonrecognized gain on the sale of~~
27 ~~a principal residence under section 1034 of the federal internal~~
28 ~~revenue code, or~~) gain excluded from income under section 121 of the
29 federal internal revenue code to the extent it is reinvested in a new
30 principal residence;

31 (ii) Amounts deducted for loss;

32 (iii) Amounts deducted for depreciation;

33 (iv) Pension and annuity receipts;

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

36 (vi) Veterans benefits other than attendant-care and medical-aid
37 payments;

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

39 (viii) Dividend receipts; and

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

2 (d) "Resident requiring assistance with activities of daily living"
3 means a person who requires significant assistance with the activities
4 of daily living and who would be at risk of nursing home placement
5 without this assistance.

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

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

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

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

22 (a) Real or personal property owned and used by a nonprofit
23 corporation in connection with the operation of a sheltered workshop
24 for handicapped persons, and used primarily in connection with the
25 manufacturing and the handling, sale or distribution of goods
26 constructed, processed, or repaired in such workshops or centers; and

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

30 (2) Unless a different meaning is plainly required by the context,
31 "sheltered workshop" means a rehabilitation facility, or that part of
32 a rehabilitation facility operated by a nonprofit corporation, where
33 any manufacture or handiwork is carried on and operated for the primary
34 purpose of: (a) Providing gainful employment or rehabilitation
35 services to the handicapped as an interim step in the rehabilitation
36 process for those who cannot be readily absorbed in the competitive
37 labor market or during such time as employment opportunities for them

1 in the competitive labor market do not exist; or (b) providing
2 evaluation and work adjustment services for handicapped individuals.

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

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

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

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

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

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

35 (a) Drugs supplied by prescription of a medical practitioner
36 authorized by the laws of this state or another jurisdiction to issue
37 prescriptions; and

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

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

9 (a) Capital gains, other than ((~~nonrecognized gain on the sale of~~
10 ~~a principal residence under section 1034 of the federal internal~~
11 ~~revenue code, or~~)) gain excluded from income under section 121 of the
12 federal internal revenue code to the extent it is reinvested in a new
13 principal residence;

14 (b) Amounts deducted for loss;

15 (c) Amounts deducted for depreciation;

16 (d) Pension and annuity receipts;

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

19 (f) Veterans benefits other than attendant-care and medical-aid
20 payments;

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

22 (h) Dividend receipts; and

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

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

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

28 As used in this chapter:

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

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

33 (3) "Federal credit" means (a) for a transfer, the maximum amount
34 of the credit for state taxes allowed by section 2011 of the Internal
35 Revenue Code; and (b) for a generation-skipping transfer, the maximum
36 amount of the credit for state taxes allowed by section 2604 of the
37 Internal Revenue Code;

- 1 (4) "Federal return" means any tax return required by chapter 11 or
2 13 of the Internal Revenue Code;
- 3 (5) "Federal tax" means (a) for a transfer, a tax under chapter 11
4 of the Internal Revenue Code; and (b) for a generation-skipping
5 transfer, the tax under chapter 13 of the Internal Revenue Code;
- 6 (6) "Generation-skipping transfer" means a "generation-skipping
7 transfer" as defined and used in section 2611 of the Internal Revenue
8 Code;
- 9 (7) "Gross estate" means "gross estate" as defined and used in
10 section 2031 of the Internal Revenue Code;
- 11 (8) "Nonresident" means a decedent who was domiciled outside
12 Washington at his death;
- 13 (9) "Person" means any individual, estate, trust, receiver,
14 cooperative association, club, corporation, company, firm, partnership,
15 joint venture, syndicate, or other entity and, to the extent permitted
16 by law, any federal, state, or other governmental unit or subdivision
17 or agency, department, or instrumentality thereof;
- 18 (10) "Person required to file the federal return" means any person
19 required to file a return required by chapter 11 or 13 of the Internal
20 Revenue Code, such as the personal representative of an estate; or a
21 transferor, trustee, or beneficiary of a generation-skipping transfer;
22 or a qualified heir with respect to qualified real property, as defined
23 and used in section 2032A(c) of the Internal Revenue Code;
- 24 (11) "Property" means (a) for a transfer, property included in the
25 gross estate; and (b) for a generation-skipping transfer, all real and
26 personal property subject to the federal tax;
- 27 (12) "Resident" means a decedent who was domiciled in Washington at
28 time of death;
- 29 (13) "Transfer" means "transfer" as used in section 2001 of the
30 Internal Revenue Code, or a disposition or cessation of qualified use
31 as defined and used in section 2032A(c) of the Internal Revenue Code;
- 32 (14) "Trust" means "trust" under Washington law and any arrangement
33 described in section 2652 of the Internal Revenue Code; and
- 34 (15) "Internal Revenue Code" means, for the purposes of this
35 chapter and RCW 83.110.010, the United States Internal Revenue Code of
36 1986, as amended or renumbered on January 1, (~~1998~~) 1999.

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

1 When used in this title, unless otherwise required from the
2 context:

3 (1) "Personal representative" includes executor, administrator,
4 special administrator, and guardian or limited guardian and special
5 representative.

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

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

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

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

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

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

1 (8) "Will" means an instrument validly executed as required by RCW
2 11.12.020.

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

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

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

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

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

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

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

1 transfer it or, in the case of contractual arrangement, the person has
2 waived the unilateral right to rescind or modify the arrangement; or a
3 right or interest held by the person solely in a fiduciary capacity.
4 For the definition of "nonprobate asset" relating to revocation of a
5 provision for a former spouse upon dissolution of marriage or
6 declaration of invalidity of marriage, RCW 11.07.010(5) applies. For
7 the definition of "nonprobate asset" relating to revocation of a
8 provision for a former spouse upon dissolution of marriage or
9 declaration of invalidity of marriage, see RCW 11.07.010(5). For the
10 definition of "nonprobate asset" relating to testamentary disposition
11 of nonprobate assets, see RCW 11.11.010(7).

12 (16) "Internal Revenue Code" means the United States Internal
13 Revenue Code of 1986, as amended or renumbered on January 1, (~~1998~~)
14 1999.

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

17 Words importing the masculine gender only may be extended to
18 females also.

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

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

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

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

28 NEW SECTION. **Sec. 23.** Section 2 of this act takes effect July 1,
29 2001.

Passed the House April 19, 1999.

Passed the Senate April 12, 1999.

Approved by the Governor May 17, 1999.

Filed in Office of Secretary of State May 17, 1999.