

1 "engaging in business," "successor," "gross operating revenue," "gross
2 income," "taxpayer," "retail sale," and "value of products" shall apply
3 equally to the provisions of this chapter.

4 (2) Unless the context requires otherwise, "agreement" means the
5 streamlined sales and use tax agreement.

6 (3) "Certified automated system" means software certified under the
7 agreement to calculate the tax imposed by each jurisdiction on a
8 transaction, determine the amount of tax to remit to the appropriate
9 state, and maintain a record of the transaction.

10 (4) "Certified service provider" means an agent certified under the
11 agreement to perform all of the seller's sales and use tax functions,
12 other than the seller's obligation to remit tax on its own purchases.

13 (5)(a) "Member state" means a state that:

14 (i) Has petitioned for membership in the agreement and submitted a
15 certificate of compliance; and

16 (ii) Prior to the effective date of the agreement, has been found
17 to be in substantial compliance with the requirements of the agreement
18 by an affirmative vote of three-fourths of the other petitioning
19 states; or

20 (iii) After the effective date of the agreement, has been found to
21 be in compliance with the agreement by a three-fourths vote of the
22 entire governing board of the agreement.

23 (b) Membership under (a)(ii) of this subsection is effective on the
24 first day of a calendar quarter at least sixty days after at least ten
25 states comprising at least twenty percent of the total population, as
26 determined by the 2000 federal census, of all states imposing a state
27 sales tax have petitioned for membership and have been found in
28 compliance with the agreement.

29 (c) Membership under (a)(iii) of this subsection is effective on
30 the state's proposed date of entry.

31 (6) "Model 1 seller" means a seller that has selected a certified
32 service provider as its agent to perform all the seller's sales and use
33 tax functions, other than the seller's obligation to remit tax on its
34 own purchases.

35 (7) "Model 2 seller" means a seller that has selected a certified
36 automated system to perform part of its sales and use tax functions,
37 but retains responsibility for remitting the tax.

1 taxpayer and such other information as the department of revenue deems
2 necessary and shall be posted in a conspicuous place at the place of
3 business for which it is issued. Where a place of business of the
4 taxpayer is changed, the taxpayer must return to the department the
5 existing certificate, and a new certificate will be issued for the new
6 place of business. No person required to be registered under this
7 section shall engage in any business taxable hereunder without first
8 being so registered. The department, by rule, may provide for the
9 issuance of certificates of registration to temporary places of
10 business.

11 (2) Unless the person is a dealer as defined in RCW 9.41.010,
12 registration under this section is not required if the following
13 conditions are met:

14 (a) A person's value of products, gross proceeds of sales, or gross
15 income of the business, from all business activities taxable under
16 chapter 82.04 RCW, is less than twelve thousand dollars per year;

17 (b) The person's gross income of the business from all activities
18 taxable under chapter 82.16 RCW is less than twelve thousand dollars
19 per year;

20 (c) The person is not required to collect or pay to the department
21 of revenue any other tax or fee which the department is authorized to
22 collect; and

23 (d) The person is not otherwise required to obtain a license
24 subject to the master application procedure provided in chapter 19.02
25 RCW.

26 (3) Persons who agree to collect and remit sales and use tax to the
27 department under the agreement and are not required to register under
28 subsection (1) of this section may:

29 (a) Register through an on-line system authorized under the
30 agreement, if the person agrees to provide additional information to
31 the department to complete the registration process; or

32 (b) Register under subsection (1) of this section.

33 **PART III. MONETARY ALLOWANCES AND VENDOR DISCOUNTS**

34 NEW SECTION. Sec. 301. A new section is added to chapter 82.32
35 RCW to read as follows:

36 (1) The department shall adopt by rule monetary allowances for

1 certified service providers, model 2 sellers, model 3 sellers, and
2 other sellers that are not model 1 or model 2 sellers. The department
3 may be guided by the provisions for monetary allowances adopted by the
4 governing board of the agreement to determine the amount of the
5 allowances and the conditions under which they are allowed. The
6 monetary allowance must be reasonable and provide adequate incentive
7 for certified service providers and sellers to collect and remit under
8 the agreement.

9 (2) For certified service providers, the monetary allowance may
10 include a base rate that applies to taxable transactions processed by
11 the certified service provider. Additionally, for a period not to
12 exceed twenty-four months following a seller's registration under RCW
13 82.32.030(3), the monetary allowance may include a percentage of tax
14 revenue generated by the seller.

15 (3) For model 2 sellers, the monetary allowance may include a base
16 rate or percentage of revenue generated by a seller registering under
17 RCW 82.32.030(3), but shall not exceed a period of twenty-four months.

18 (4) For model 3 sellers and all other sellers that are not model 1
19 sellers or model 2 sellers, the monetary allowance may include a
20 percentage of tax revenue generated by a seller registering under RCW
21 82.32.030(3), but shall not exceed a period of twenty-four months.

22 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.32
23 RCW to read as follows:

24 (1) The department may adopt by rule vendor compensation for
25 sellers collecting and remitting sales and use taxes. The vendor
26 compensation may include a base rate or a percentage of tax revenue
27 collected by the seller, and may vary by type of seller. The
28 department may be guided by the findings of the cost of collection
29 study performed under the agreement, by cost of collection studies
30 performed by the department, and by vendor compensation provided by
31 other states, to determine reasonable vendor compensation for sellers
32 for the costs to collect and remit sales and use taxes.

33 (2) A seller shall not be entitled to vendor compensation while the
34 seller or its certified service provider, as defined in RCW 82.32.020,
35 receives a monetary allowance under section 301 of this act.

PART IV. AMNESTY

NEW SECTION. **Sec. 401.** A new section is added to chapter 82.32 RCW to read as follows:

(1) No assessment for taxes imposed under chapters 82.08 and 82.12 RCW, or related penalties or interest, may be made by the department against a seller who:

(a) Within twelve months of the effective date of this state becoming a member state of the agreement, registers to collect and remit to the department the applicable taxes imposed under chapters 82.08 and 82.12 RCW on sales made to buyers in this state in accordance with the terms of the agreement, if the seller was not so registered in this state in the twelve-month period preceding the effective date of this state becoming a member state of the agreement; and

(b) Continues to be registered and continues to collect and remit to the department the applicable taxes imposed under chapters 82.08 and 82.12 RCW for a period of at least thirty-six months, absent the seller's fraud or intentional misrepresentation of a material fact.

(2) The provisions of subsection (1) of this section preclude an assessment for taxes imposed under chapters 82.08 and 82.12 RCW for sales made to buyers during the period the seller was not registered in this state.

(3) The provisions of this section do not apply to any seller with respect to:

(a) Any matter or matters for which the seller, before registering to collect and remit the applicable taxes imposed under chapters 82.08 and 82.12 RCW, received notice from the department of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes;

(b) Taxes imposed under chapters 82.08 and 82.12 RCW and collected or remitted to the department by the seller; or

(c) That seller's liability for taxes imposed under chapters 82.08 and 82.12 RCW in that seller's capacity as a buyer.

(4) The periods of limitation for making an assessment or correction of an assessment prescribed in RCW 82.32.050(3) and 82.32.100(3) do not run during the thirty-six month period in subsection (1)(b) of this section.

PART V. SOURCING

NEW SECTION. **Sec. 501.** A new section is added to chapter 82.32 RCW to read as follows:

(1) Except as provided in subsections (5), (6), (7), and (8) of this section, for purposes of collecting or paying sales or use taxes to the appropriate jurisdictions, all sales at retail shall be sourced in accordance with this subsection and subsections (2) through (4) of this section.

(a) When tangible personal property or a service defined as a retail sale under RCW 82.04.050 is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) When the tangible personal property or a service defined as a retail sale under RCW 82.04.050 is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

(c) When (a) and (b) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(d) When (a), (b), and (c) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(e) When (a), (b), (c), or (d) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service defined as a retail sale under RCW 82.04.050 was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

1 (2) The lease or rental of tangible personal property, other than
2 property identified in subsection (3) or (4) of this section, shall be
3 sourced as follows:

4 (a) For a lease or rental that requires recurring periodic
5 payments, the first periodic payment is sourced the same as a retail
6 sale in accordance with subsection (1) of this section. Periodic
7 payments made subsequent to the first payment are sourced to the
8 primary property location for each period covered by the payment. The
9 primary property location shall be as indicated by an address for the
10 property provided by the lessee that is available to the lessor from
11 its records maintained in the ordinary course of business, when use of
12 this address does not constitute bad faith. The property location
13 shall not be altered by intermittent use at different locations, such
14 as use of business property that accompanies employees on business
15 trips and service calls.

16 (b) For a lease or rental that does not require recurring periodic
17 payments, the payment is sourced the same as a retail sale in
18 accordance with subsection (1) of this section.

19 (c) This subsection does not affect the imposition or computation
20 of sales or use tax on leases or rentals based on a lump sum or
21 accelerated basis, or on the acquisition of property for lease.

22 (3) The lease or rental of motor vehicles, trailers, semitrailers,
23 or aircraft that do not qualify as transportation equipment shall be
24 sourced as follows:

25 (a) For a lease or rental that requires recurring periodic
26 payments, each periodic payment is sourced to the primary property
27 location. The primary property location shall be as indicated by an
28 address for the property provided by the lessee that is available to
29 the lessor from its records maintained in the ordinary course of
30 business, when use of this address does not constitute bad faith. This
31 location shall not be altered by intermittent use at different
32 locations.

33 (b) For a lease or rental that does not require recurring periodic
34 payments, the payment is sourced the same as a retail sale in
35 accordance with subsection (1) of this section.

36 (c) This subsection does not affect the imposition or computation
37 of sales or use tax on leases or rentals based on a lump sum or
38 accelerated basis, or on the acquisition of property for lease.

1 (4) The retail sale, including lease or rental, of transportation
2 equipment shall be sourced the same as a retail sale in accordance with
3 subsection (1) of this section.

4 (5) A purchaser that is a business and is not a holder of a direct
5 pay permit that knows at the time of purchase of a digital good,
6 computer software delivered electronically, or a service that the
7 digital good, computer software delivered electronically, or service
8 will be concurrently available for use in more than one jurisdiction
9 shall deliver to the seller in conjunction with its purchase a multiple
10 points of use exemption form disclosing this fact.

11 (a) Upon receipt of the multiple point of use exemption form, the
12 seller is relieved of all obligation to collect, pay, or remit the
13 applicable tax and the purchaser is obligated to collect, pay, or remit
14 the applicable tax.

15 (b) A purchaser delivering the multiple point of use exemption
16 form, or a direct pay permit in lieu of a multiple point of use
17 exemption form, may use any reasonable, but consistent and uniform,
18 method of apportionment that is supported by the purchaser's business
19 records as they exist at the time of the consummation of the sale.

20 (c) The multiple point of use exemption form shall remain in effect
21 for all future sales by the seller to the purchaser until it is revoked
22 in writing.

23 (6)(a) A purchaser of direct mail that is not a holder of a direct
24 pay permit shall provide to the seller in conjunction with the purchase
25 either a direct mail form or information that shows the jurisdictions
26 to which the direct mail is delivered to recipients.

27 (i) Upon receipt of the direct mail form, the seller is relieved of
28 all obligations to collect, pay, or remit the applicable tax and the
29 purchaser is obligated to pay or remit the applicable tax on a direct
30 pay basis. A direct mail form shall remain in effect for all future
31 sales of direct mail by the seller to the purchaser until it is revoked
32 in writing.

33 (ii) Upon receipt of information from the purchaser showing the
34 jurisdictions to which the direct mail is delivered to recipients, the
35 seller shall collect the tax according to the delivery information
36 provided by the purchaser. In the absence of bad faith, the seller is
37 relieved of any further obligation to collect tax on any transaction

1 where the seller has collected tax pursuant to the delivery information
2 provided by the purchaser.

3 (b) If the purchaser of direct mail does not have a direct pay
4 permit and does not provide the seller with either a direct mail form
5 or delivery information as required by (a) of this subsection, the
6 seller shall collect the tax according to subsection (1)(e) of this
7 section. This subsection does not limit a purchaser's obligation for
8 sales or use tax to any state to which the direct mail is delivered.

9 (c) If a purchaser of direct mail provides the seller with
10 documentation of direct pay authority, the purchaser is not required to
11 provide a direct mail form or delivery information to the seller.

12 (7) The following are sourced to the location at or from which
13 delivery is made to the consumer:

14 (a) A retail sale consisting of watercraft;

15 (b) A retail sale consisting of a modular home, manufactured home,
16 or mobile home;

17 (c) A retail sale, excluding the lease and rental, consisting of a
18 motor vehicle, trailer, semitrailer, or aircraft, that do not qualify
19 as transportation equipment; and

20 (d) Until January 1, 2006, a retail sale of tangible personal
21 property made by a person engaged in the business of selling flowers.
22 The rules for the sourcing retail sales and use taxes of flowers
23 delivered with telegraphic instructions in WAC 458-20-158, as effective
24 on July 1, 1970, shall remain in effect until January 1, 2006.

25 (8) A retail sale consisting of the providing of telecommunications
26 services shall be sourced in accordance with RCW 82.32.520.

27 (9) The definitions in this subsection apply throughout this
28 section.

29 (a) "Delivered electronically" means delivered to the purchaser by
30 means other than tangible storage media.

31 (b) "Direct mail" means printed material delivered or distributed
32 by United States mail or other delivery service to a mass audience or
33 to addressees on a mailing list provided by the purchaser or at the
34 direction of the purchaser when the cost of the items are not billed
35 directly to the recipients. "Direct mail" includes tangible personal
36 property supplied directly or indirectly by the purchaser to the direct
37 mail seller for inclusion in the package containing the printed

1 material. "Direct mail" does not include multiple items of printed
2 material delivered to a single address.

3 (c) "Receive" and "receipt" means taking possession of tangible
4 personal property, making first use of services, or taking possession
5 or making first use of digital goods, whichever comes first. "Receive"
6 and "receipt" do not include possession by a shipping company on behalf
7 of the purchaser.

8 (d) "Transportation equipment" means any of the following:

9 (i) Locomotives and railcars that are used for the carriage of
10 persons or property in interstate commerce;

11 (ii) Trucks and truck-tractors with a gross vehicle weight rating
12 of 10,001 pounds or greater, trailers, semitrailers, or passenger buses
13 that are:

14 (A) Registered through the international registration plan; and

15 (B) Operated under authority of a carrier authorized and
16 certificated by the United States department of transportation or
17 another federal authority to engage in the carriage of persons or
18 property in interstate commerce;

19 (iii) Aircraft that are operated by air carriers authorized and
20 certificated by the United States department of transportation or
21 another federal or foreign authority to engage in the carriage of
22 persons or property in interstate or foreign commerce;

23 (iv) Containers designed for use on and component parts attached or
24 secured on the items described in (d)(i) through (iii) of this
25 subsection.

26 (10) In those instances where there is no obligation on the part of
27 a seller to collect or remit use tax, the use of tangible personal
28 property or of a service, subject to use tax, is sourced to the place
29 of first use. The definition of use in RCW 82.12.010 applies to this
30 subsection.

31 **Sec. 502.** RCW 82.14.020 and 2003 c 168 s 503 and 2003 c 168 s 502
32 are each reenacted and amended to read as follows:

33 For purposes of this chapter:

34 (1) ~~((A retail sale consisting solely of the sale of tangible~~
35 ~~personal property shall be deemed to have occurred at the retail outlet~~
36 ~~at or from which delivery is made to the consumer;~~

1 ~~(2) A retail sale consisting essentially of the performance of~~
2 ~~personal, business, or professional services shall be deemed to have~~
3 ~~occurred at the place at which such services were primarily performed,~~
4 ~~except that for the performance of a tow truck service, as defined in~~
5 ~~RCW 46.55.010, the retail sale shall be deemed to have occurred at the~~
6 ~~place of business of the operator of the tow truck service;~~

7 ~~(3) A retail sale consisting of the rental of tangible personal~~
8 ~~property shall be deemed to have occurred (a) in the case of a rental~~
9 ~~involving periodic rental payments, at the place of primary use by the~~
10 ~~lessee during the period covered by each payment, or (b) in all other~~
11 ~~cases, at the place of first use by the lessee;~~

12 ~~(4) A retail sale within the scope of RCW 82.04.050(2), and a~~
13 ~~retail sale of taxable personal property to be installed by the seller~~
14 ~~shall be deemed to have occurred at the place where the labor and~~
15 ~~services involved were primarily performed;~~

16 ~~(5)(a) A retail sale consisting of the providing to a consumer of~~
17 ~~telephone service, as defined in RCW 82.04.065, other than a sale of~~
18 ~~tangible personal property under subsection (1) of this section or a~~
19 ~~rental of tangible personal property under subsection (3) of this~~
20 ~~section or a sale of mobile telecommunications services, shall be~~
21 ~~deemed to have occurred at the situs of the telephone or other~~
22 ~~instrument through which the telephone service is rendered;~~

23 ~~(b) A retail sale consisting of the providing of telecommunications~~
24 ~~services shall be sourced in accordance with RCW 82.32.520;~~

25 ~~(6) A retail sale of linen and uniform supply services is deemed to~~
26 ~~occur as provided in RCW 82.08.0202;~~

27 ~~(7)) "City" means a city or town;~~

28 ~~((8)) (2) The meaning ascribed to words and phrases in chapters~~
29 ~~82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as~~
30 ~~applicable, shall have full force and effect with respect to taxes~~
31 ~~imposed under authority of this chapter;~~

32 ~~((9)) (3) "Taxable event" shall mean any retail sale, or any use,~~
33 ~~upon which a state tax is imposed pursuant to chapter 82.08 or 82.12~~
34 ~~RCW, as they now exist or may hereafter be amended: PROVIDED, HOWEVER,~~
35 ~~That the term shall not include a retail sale taxable pursuant to RCW~~
36 ~~82.08.150, as now or hereafter amended;~~

37 ~~((10)) (4) "Treasurer or other legal depository" shall mean the~~
38 ~~treasurer or legal depository of a county or city.~~

1 financial impacts related to the enactment of section 501 of this act.
2 Except as provided in subsection (3) of this section, into this account
3 shall be placed:

4 (a) An amount of state sales and use taxes, as provided in section
5 606 of this act, representing a portion of the amount that is expected
6 to be received by the department from sellers who, under the agreement,
7 register to collect and remit to the department state sales and use
8 taxes and who are otherwise not required to register under RCW
9 82.32.030(1);

10 (b) A portion of the amounts deducted under the authority of RCW
11 82.14.050 by the department under contract with counties and cities and
12 with transportation authorities under RCW 82.14.045 for the
13 administration and collection of sales and use taxes authorized by this
14 chapter and imposed by such local taxing authorities. The portion is
15 equal to the product of (i) the total amounts deducted and (ii) the
16 factor specified in section 606(1)(b) of this act; and

17 (c) All amounts authorized under section 604 of this act to be
18 deducted by the department.

19 (2)(a) Funds in the streamlined sales and use tax agreement
20 mitigation account shall be distributed by the state treasurer to
21 cities, counties, and transportation authorities, as directed by the
22 department and in accordance with sections 603 and 605 of this act.

23 (b) Any funds that remain in the account as of June 30 of each year
24 shall be distributed ratably to the state general fund and to the local
25 jurisdictions for which the department made a deduction under section
26 604 of this act, based on the proportion of funds received to the
27 account from each jurisdiction under this section.

28 (3) By December 1, 2010, the department shall submit a report to
29 the governor and the legislature on the fiscal and economic effects of
30 the sourcing changes under section 501 of this act. The department
31 shall consider any changes to the tax base pursuant to the
32 implementation of legislation to require remote sellers to collect and
33 remit sales taxes pursuant to federal authorization under section
34 1101(1) (a) or (b) of this act, and the need for continuing state
35 mitigation assistance.

36 (4) For purposes of this section and sections 603 through 606 of
37 this act, the following definitions apply:

1 (a) "State sales and use taxes" means the taxes imposed under
2 chapters 82.08 and 82.12 RCW.

3 (b) "Agreement" means the same as in RCW 82.58.010.

4 (c) "Transportation authority" means an authority that imposes a
5 tax under RCW 82.14.045.

6 (4) This section expires June 30, 2015.

7 NEW SECTION. **Sec. 603.** A new section is added to chapter 82.14
8 RCW to read as follows:

9 (1) At such times as distributions are made under RCW 82.14.060,
10 the state treasurer, as directed by the department, shall make
11 distributions to eligible counties, cities, and transportation
12 authorities from the streamlined sales and use tax agreement mitigation
13 account. Except as provided in (e) of this subsection, the
14 distributions shall be made as provided in (a) through (d) of this
15 subsection.

16 (a) In the period July 2005 through June 2006, an amount equal to:

17 (i) Eighty-five percent of estimated sales tax loss for each
18 county, city, and transportation authority whose estimated sales tax
19 loss is four percent or more of total calendar year 2002 unrestricted
20 current expense revenue as determined by the department;

21 (ii) Seventy percent of estimated sales tax loss for each county,
22 city, and transportation authority whose estimated sales tax loss is at
23 least one-half of one percent, but less than four percent of total
24 calendar year 2002 unrestricted current expense revenue as determined
25 by the department; and

26 (iii) Fifty percent of estimated sales tax loss for each county,
27 city, and transportation authority whose estimated sales tax loss is
28 less than one-half of one percent of total calendar year 2002
29 unrestricted current expense revenue, but greater than one hundred
30 thousand dollars as determined by the department.

31 (b) In the period July 2006 through June 2007, an amount equal to:

32 (i) Sixty-five percent of estimated sales tax loss for each county,
33 city, and transportation authority whose estimated sales tax loss is
34 four percent or more of total calendar year 2002 unrestricted current
35 expense revenue as determined by the department;

36 (ii) Fifty percent of estimated sales tax loss for each county,
37 city, and transportation authority whose estimated sales tax loss is at

1 least one-half of one percent, but less than four percent of total
2 calendar year 2002 unrestricted current expense revenue as determined
3 by the department; and

4 (iii) Twenty-five percent of estimated sales tax loss for each
5 county, city, and transportation authority whose estimated sales tax
6 loss is less than one-half of one percent of total calendar year 2002
7 unrestricted current expense revenue, but greater than one hundred
8 thousand dollars as determined by the department.

9 (c) In the period July 2007 through June 2008, an amount equal to:

10 (i) Forty-five percent of estimated sales tax loss for each county,
11 city, and transportation authority whose estimated sales tax loss is
12 four percent or more of total calendar year 2002 unrestricted current
13 expense revenue as determined by the department; and

14 (ii) Twenty-five percent of estimated sales tax loss for each
15 county, city, and transportation authority whose estimated sales tax
16 loss is at least one-half of one percent, but less than four percent of
17 total calendar year 2002 unrestricted current expense revenue as
18 determined by the department.

19 (d) In the period July 2008 through June 2009, an amount equal to
20 twenty-five percent of estimated sales tax loss for each county, city,
21 and transportation authority whose estimated sales tax loss is four
22 percent or more of total calendar year 2002 unrestricted current
23 expense revenue as determined by the department.

24 (e)(i) In each fiscal year through fiscal year 2012, an amount
25 equal to no less than sixty percent of the estimated long-term sales
26 tax loss, and in each fiscal year from fiscal year 2013 through fiscal
27 year 2015, an amount equal to no less than thirty percent of the
28 estimated long-term sales tax loss, for each county, city, and
29 transportation authority whose estimated long-term sales tax loss is:
30 (A) At least two-hundred and fifty thousand dollars in magnitude and
31 equal to one and six-tenths percent or more of total calendar year 2002
32 unrestricted current expense revenue as determined by the department;
33 or (B) equal to three percent or more of total calendar year 2002
34 unrestricted current expense revenue as determined by the department.
35 The amounts shall be provided as in (e)(ii) through (iv) of this
36 subsection.

37 (ii) If the amount to be distributed for the fiscal year in (a),

1 (b), (c), or (d) of this subsection (1) exceeds an amount equal to
2 sixty percent of the estimated long-term sales tax loss, no amounts
3 shall be distributed under this subsection (1)(e) for the fiscal year.

4 (iii) If the amount to be distributed for the fiscal year in (a),
5 (b), (c), or (d) of this subsection (1) is equal to or less than an
6 amount equal to sixty percent of the estimated long-term sales tax
7 loss, the treasurer shall distribute an additional amount under this
8 subsection (1)(e) for the fiscal year such that the total amount
9 distributed is equal to sixty percent of the estimated long-term sales
10 tax loss.

11 (iv) In each fiscal year following the fiscal year in which the
12 distributions in (d) of this subsection (1) are made through fiscal
13 year 2012, the treasurer shall distribute an amount equal to sixty
14 percent of the estimated long-term sales tax loss. For each fiscal
15 year thereafter, the treasurer shall distribute an amount equal to
16 thirty percent of the estimated long-term sales tax loss.

17 (2) If the amounts necessary to make the distributions under this
18 section exceed the amount of funds in the streamlined sales and use tax
19 agreement mitigation account, then the distributions under this section
20 shall be reduced ratably on the basis of the amount of estimated sales
21 tax loss.

22 (3) Determinations by the department of amounts to be distributed
23 by the state treasurer under this section are final and not appealable.

24 (4) For purposes of this section, the following definitions apply:

25 (a) "Eligible counties, cities, and transportation authorities"
26 means those counties, cities, and transportation authorities imposing
27 a tax under this chapter that have each experienced an estimated sales
28 tax loss:

29 (i) Of a magnitude that is greater than or equal to one-half of one
30 percent of total calendar year 2002 unrestricted current expense
31 revenue; or

32 (ii) Greater than or equal to one hundred thousand dollars in
33 magnitude.

34 (b) "Estimated sales tax loss" means a loss in sales tax revenues
35 resulting from the implementation of section 501 of this act as
36 estimated by the department and included in appendix A of the
37 streamlined sales and use tax agreement sourcing study published by the
38 department in December 2003.

1 (c) "Estimated long-term sales tax loss" means a loss in sales tax
2 revenues, as estimated by the department and as shown in LEAP document
3 X, due to:

4 (i) The implementation of section 501 of this act. Loss in
5 revenues is as estimated by the department and included in appendix A
6 of the streamlined sales and use tax agreement sourcing study published
7 by the department in December 2003; and

8 (ii) The imposition of the state retail sales tax collection and
9 remittance requirements on remote sellers pursuant to federal
10 authorization under section 1101(1) (a) or (b) of this act, based on
11 the department's statewide estimate of sales tax gain following such
12 changes as reported in the streamlined sales and use tax agreement
13 sourcing study published in December 2003.

14 (d) "Unrestricted current expense revenue" means the amount of
15 unrestricted revenue deposited in calendar year 2002 to the general
16 fund of a jurisdiction as reported under the state budget and
17 accounting reporting system requirements to the state auditor's office.
18 For transportation authorities, "unrestricted current expense revenue"
19 shall include only the taxes imposed under this chapter.

20 (5) This section expires June 30, 2015.

21 NEW SECTION. **Sec. 604.** A new section is added to chapter 82.14
22 RCW to read as follows:

23 (1) In addition to the deduction provided for in RCW 82.14.050, the
24 department shall deduct an additional amount from the taxes collected
25 for counties, cities, and transportation authorities for the purpose of
26 mitigating any adverse impacts as a result of the implementation of
27 section 501 of this act.

28 (2)(a)(i) Except as provided in (a)(ii) and (iii) of this
29 subsection, the amount deducted under this section shall be the product
30 of two percent of the taxes collected and the factor in (b) of this
31 subsection.

32 (ii) Deductions shall cease for the remainder of a calendar year
33 when the cumulative amount deducted equals the product of eighty
34 percent of the estimated sales tax gain accruing to the county, city,
35 or transportation authority and the factor in (b) of this subsection.
36 Deductions that have ceased under this subsection (2) shall resume the
37 following calendar year.

1 (iii) If the estimated sales tax gain is zero, no amount may be
2 deducted.

3 (b)(i) For the fiscal year ending June 30, 2006, the factor is
4 equal to eighty-three one-hundredths;

5 (ii) For the fiscal year ending June 30, 2007, the factor is equal
6 to sixty one-hundredths;

7 (iii) For the fiscal year ending June 30, 2008, the factor is equal
8 to thirty-six one-hundredths;

9 (iv) For the fiscal year ending June 30, 2009, the factor is equal
10 to fourteen one-hundredths.

11 (3) The deduction in subsection (2) of this section shall be placed
12 into the streamlined sales and use tax agreement mitigation account
13 established in section 602 of this act.

14 (4) For purposes of this section, "estimated sales tax gain" means
15 the estimated increase in sales tax revenues resulting from the
16 implementation of section 501 of this act included in appendix A of the
17 streamlined sales and use tax agreement sourcing study published by the
18 department in December 2003. If no increase is estimated in the study
19 to occur, "estimated sales tax gain" is zero.

20 (5) This section expires June 30, 2009.

21 NEW SECTION. **Sec. 605.** A new section is added to chapter 82.14
22 RCW to read as follows:

23 (1) The legislature recognizes that the estimated sales tax loss
24 calculated by the department and included in appendix A of the
25 streamlined sales and use tax agreement sourcing study published by the
26 department in December 2003 may be less accurate for smaller
27 jurisdictions. To address the possibility that certain small
28 jurisdictions face unanticipated adverse financial impacts as a result
29 of the implementation of the sourcing provisions of this act, the
30 legislature finds that it is necessary to provide temporary
31 supplemental mitigation funds.

32 (2)(a) The department, in consultation with a committee composed of
33 city, county, and transportation authority officials from eligible
34 small impacted jurisdictions, shall evaluate the actual impact of the
35 implementation of section 501 of this act on eligible small impacted
36 jurisdictions. Committee responsibilities include review and feedback
37 with respect to the department's analysis of actual impacts.

1 (b) To evaluate the actual impact, the department shall examine
2 with respect to eligible small impacted jurisdictions the taxpayer data
3 in industries for which the implementation of section 501 of this act
4 results in a significant reallocation of tax revenues between
5 jurisdictions. The department shall compare data pertaining to
6 collections after the effective date of section 501 of this act to data
7 pertaining to collections before the effective date. The department
8 may account and adjust for economic growth in its analysis as
9 necessary.

10 (3)(a) Based on the results of the evaluation in subsection (2) of
11 this section, the department shall direct the state treasurer to
12 distribute supplemental mitigation funds from the streamlined sales and
13 use tax agreement mitigation account to eligible small impacted
14 jurisdictions. The amount distributed to a jurisdiction is an amount,
15 when added to funds provided pursuant to section 603 of this act in the
16 previous fiscal year, equals the amount that would have been provided
17 had actual sales tax loss data been used in lieu of estimated sales tax
18 loss data in the calculation under that section.

19 (b) No more than two million dollars may be provided under this
20 section to all eligible small impacted jurisdictions in any fiscal
21 year.

22 (c) If the amounts necessary to make the distributions under this
23 section exceed the limitation under this subsection (3), then the
24 distributions under this section shall be reduced ratably on the basis
25 of the full amounts calculated for distribution under (a) of this
26 subsection.

27 (4) For the purposes of this section, "eligible small impacted
28 jurisdiction" means:

29 (a) A county with a population of seventy-two thousand persons or
30 less;

31 (b) A city or town with a population of ten thousand persons or
32 less; or

33 (c) A transportation authority with a population of fifty thousand
34 persons or less.

35 (5) This section expires June 30, 2009.

36 NEW SECTION. **Sec. 606.** A new section is added to chapter 82.32
37 RCW to read as follows:

1 (1)(a) On July 1 of each year, an amount of sales and use taxes
2 under chapters 82.08 and 82.12 RCW shall be deposited into the
3 streamlined sales and use tax agreement mitigation account created
4 under section 602 of this act equal to the product of (i) the amount
5 that is forecasted as of June 30, 2004, by the office of the forecast
6 council to be received by the department during the fiscal year
7 pursuant to the enactment of chapter . . ., Laws of 2004 (this act)
8 from sellers who, under the agreement, register to collect and remit to
9 the department state sales and use taxes and who are otherwise not
10 required to register under RCW 82.32.030(1), and (ii) the factor
11 specified in (b) of this subsection.

12 (b)(i) For the fiscal year ending June 30, 2006, the factor is
13 equal to eighty-three one-hundredths.

14 (ii) For the fiscal year ending June 30, 2007, the factor is equal
15 to sixty-three one-hundredths.

16 (iii) For the fiscal year ending June 30, 2008, the factor is equal
17 to fifty-four one-hundredths.

18 (iv) For the fiscal year ending June 30, 2009, the factor is equal
19 to forty-nine one-hundredths.

20 (v) For the fiscal year ending June 30, 2010, through the fiscal
21 year ending June 30, 2015, the factor is equal to thirty-nine one-
22 hundredths.

23 (2) This section expires June 30, 2015.

24 **PART VII. LOCAL SALES AND PROPERTY TAX EQUALIZATION**

25 NEW SECTION. **Sec. 701.** A new section is added to chapter 82.14
26 RCW to read as follows:

27 (1) The legislature finds that the sales and use tax and property
28 tax bases of some local jurisdictions in the state are inadequate to
29 allow the jurisdictions to generate enough tax revenues to pay for core
30 services over the long term. The legislature intends to assist such
31 jurisdictions by providing a portion of the state retail sales tax
32 revenues realized by an expansion of the tax base following federal
33 government action that authorizes states to require remote sellers to
34 collect and remit sales taxes.

35 (2) The local sales and property tax equalization account is
36 created in the state treasury. A portion of the retail sales tax

1 receipts received from the imposition of retail sales tax collection
2 and remittance requirements on remote sellers shall be deposited to the
3 account, as provided in section 702 of this act. Moneys in the account
4 may only be spent after appropriation and are to be distributed to
5 local jurisdictions for the purpose of assisting in the provision of
6 core governmental services.

7 NEW SECTION. **Sec. 702.** A new section is added to chapter 82.32
8 RCW to read as follows:

9 Beginning in the fiscal year after the fiscal year in which the
10 legislature requires remote sellers to collect and remit sales taxes
11 pursuant to federal authorization under section 1101(1) (a) or (b) of
12 this act, the treasurer shall transfer from the state general fund to
13 the local sales and property tax equalization account created in
14 section 701 of this act an amount, representing a portion of new
15 collections under chapters 82.08 and 82.12 RCW resulting from the
16 legislative change, equal to eighty million dollars, divided into four
17 equal deposits occurring on July 1, October 1, January 1, and April 1.
18 For each fiscal year thereafter, the state treasurer shall increase the
19 total transfer by the fiscal growth factor, as defined in RCW
20 43.135.025, forecast for that fiscal year by the office of financial
21 management in November of the preceding year.

22 NEW SECTION. **Sec. 703.** A new section is added to chapter 82.14
23 RCW to read as follows:

24 (1) The local sales and property tax equalization task force is
25 formed for the purpose of providing a recommendation to the governor
26 and to the legislature for a mechanism to distribute funds in the local
27 sales and property tax equalization account created in section 701 of
28 this act.

29 (2)(a) Membership on the task force shall be as follows: Two
30 members each from the house of representatives and from the senate,
31 appointed by the leaders of each of the two largest caucuses in each
32 house; a designee of the governor who will coordinate the appointment
33 of the task force chairperson; a representative of the department of
34 revenue; one person representing the large counties of the state,
35 appointed by the governor; one person representing the small counties
36 of the state, appointed by the governor; one person representing the

1 large cities of the state, appointed by the governor; one person
2 representing the small cities of the state, appointed by the governor;
3 and one person representing transportation authorities, appointed by
4 the governor.

5 (b) Members of the task force shall serve without compensation, but
6 shall be reimbursed for travel expenses as provided in RCW 43.03.050
7 and 43.03.060.

8 (3) The staffs of the department, the office of financial
9 management, and the fiscal committees of the legislature shall support
10 the task force as needed.

11 (4) In arriving at a recommendation, the task force shall consider
12 factors that influence the generation of revenue in local
13 jurisdictions, including the long-term growth of the sales and property
14 tax bases; structural changes to the sales tax base as a result of the
15 implementation of section 501 of this act and enactment of legislation
16 pursuant to federal action under section 1101(1) (a) and (b) of this
17 act; changes to property taxation authority in recent years; and other
18 local economic factors. The task force shall submit its recommendation
19 to the legislature by December 1, 2005.

20 **PART VIII. CONFIDENTIALITY AND PRIVACY PROTECTIONS FOR**
21 **PERSONS USING CERTIFIED SERVICE PROVIDERS**

22 NEW SECTION. **Sec. 801.** A new section is added to chapter 82.32
23 RCW to read as follows:

24 (1) A fundamental precept of allowing the use of a certified
25 service provider is to preserve the privacy of consumers by protecting
26 their anonymity. With very limited exceptions, a certified service
27 provider shall perform its tax calculation, remittance, and reporting
28 functions without retaining the personally identifiable information of
29 consumers.

30 (2) The department of revenue shall provide public notification to
31 consumers, including purchasers claiming exemption from tax, of its
32 practices relating to the collection, use, and retention of personally
33 identifiable information.

34 (3) When personally identifiable information that has been
35 collected and retained is no longer required to ensure the validity of

1 exemptions from taxation by reason of the consumer's status or the
2 intended use of the goods or services purchased, the information shall
3 no longer be retained by the state of Washington.

4 (4) When personally identifiable information regarding an
5 individual is retained by or on behalf of the state of Washington, this
6 state shall provide reasonable access for the individual to his or her
7 own information and a right to correct any inaccurately recorded
8 information.

9 (5) If anyone other than a member state of the agreement, or other
10 than a person authorized by Washington law or the agreement, seeks to
11 discover personally identifiable information, the state of Washington
12 shall make a reasonable and timely effort to notify the individual of
13 the request.

14 (6) The provisions of this section may be enforced by petitioning
15 the superior court of Thurston county for injunctive relief.

16 **PART IX. TAXABILITY MATRIX**

17 NEW SECTION. **Sec. 901.** A new section is added to chapter 82.32
18 RCW to read as follows:

19 (1) The department of revenue shall complete a taxability matrix
20 maintained by the member states of the agreement in downloadable
21 format. The matrix contains terms defined in the agreement. The
22 department of revenue shall provide notice of changes in the taxability
23 of products or services listed in the matrix.

24 (2) Sellers and certified service providers are relieved from
25 liability to the state and to local jurisdictions for having charged or
26 collected the incorrect amount of sales or use tax if the error
27 resulted from reliance on erroneous information provided by the
28 department of revenue in the taxability matrix.

29 **PART X. DELIVERY CHARGES**

30 NEW SECTION. **Sec. 1001.** A new section is added to chapter 82.08
31 RCW to read as follows:

32 When computing the tax levied by RCW 82.08.020, if a shipment
33 consists of taxable tangible personal property and nontaxable tangible
34 personal property, and delivery charges are included in the sales

1 price, the seller must collect and remit tax on the percentage of
2 delivery charges allocated to the taxable tangible property, but does
3 not have to collect and remit tax on the percentage allocated to exempt
4 tangible personal property. The seller may use either of the following
5 percentages to determine the taxable portion of the delivery charges:

6 (1) A percentage based on the total sales price of the taxable
7 tangible property compared to the total sales price of all tangible
8 personal property in the shipment; or

9 (2) A percentage based on the total weight of the taxable tangible
10 personal property compared to the total weight of all tangible personal
11 property in the shipment.

12 NEW SECTION. **Sec. 1002.** A new section is added to chapter 82.12
13 RCW to read as follows:

14 When computing the tax levied by RCW 82.12.020, if a shipment
15 consists of taxable tangible personal property and nontaxable tangible
16 personal property, and delivery charges are included in the purchase
17 price, the retailer must collect and remit tax on the percentage of
18 delivery charges allocated to the taxable personal property, but does
19 not have to collect and remit tax on the percentage allocated to exempt
20 tangible personal property. The retailer may use either of the
21 following percentages to determine the taxable portion of the delivery
22 charges:

23 (1) A percentage based on the total purchase price of the taxable
24 personal property compared to the total purchase price of all tangible
25 personal property in the shipment; or

26 (2) A percentage based on the total weight of the taxable tangible
27 personal property compared to the total weight of all tangible personal
28 property in the shipment.

29 **PART XI. MISCELLANEOUS PROVISIONS**

30 NEW SECTION. **Sec. 1101.** (1) Sections 501 through 503, 601 through
31 606, and 1102 of this act take effect July 1, 2005. Section 401 of
32 this act takes effect when Washington becomes a member state of the
33 streamlined sales and use tax agreement. Section 302 of this act takes
34 effect when:

1 (a) The United States congress grants individual states the
2 authority to impose sales and use tax collection duties on remote
3 sellers; or

4 (b) It is determined by a court of competent jurisdiction, in a
5 judgment not subject to review, that a state can impose sales and use
6 tax collection duties on remote sellers.

7 (2) The remainder of this act takes effect July 1, 2004.

8 **Sec. 1102.** 2003 c 168 s 902 (uncodified) is amended to read as
9 follows:

10 (1) If a court of competent jurisdiction enters a final judgment on
11 the merits that is based on federal or state law, is no longer subject
12 to appeal, and substantially limits or impairs the essential elements
13 of P.L. 106-252, 4 U.S.C. Secs. 116 through 126, or chapter 67, Laws of
14 2002, then chapter 67, Laws of 2002 is null and void in its entirety,
15 except as provided in subsection (2) of this section.

16 (2) ~~((If the contingency in subsection (1) of this section occurs,~~
17 ~~section 502, chapter 168, Laws of 2003 is null and void)) Subsection~~
18 ~~(1) of this section does not apply to section 7, chapter 67, Laws of~~
19 ~~2002 on or after April 1, 2005.~~

20 NEW SECTION. **Sec. 1103.** Part headings used in this act are not
21 any part of the law.

22 NEW SECTION. **Sec. 1104.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 1105.** If specific funding for the purposes of
27 this act referencing this act by bill or chapter number is not provided
28 by June 30, 2004, in the omnibus appropriations act, this act is null
29 and void.

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