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SENATE BILL 6346

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State of Washington

58th Legislature

2004 Regular Session

By Senators Johnson, Prentice and Winsley; by request of Department of Revenue

Read first time 01/19/2004. Referred to Committee on Ways & Means.

1 AN ACT Relating to the assessment, collection, and administration  
2 of the taxes imposed under chapter 83.100 RCW; amending RCW 83.100.130,  
3 83.100.090, 83.100.210, 83.100.040, 83.100.150, 82.03.130, 82.03.180,  
4 82.03.190, 83.100.020, 83.100.110, 82.32.070, 82.32.105, and 82.32.265;  
5 reenacting and amending RCW 82.32.330; adding new sections to chapter  
6 83.100 RCW; creating new sections; and repealing RCW 83.100.045,  
7 83.100.030, 83.100.160, 83.100.170, 83.100.180, and 83.100.190.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that significant  
10 changes have been made in federal estate tax laws. The legislature  
11 finds these changes have complicated the administration of Washington  
12 transfer taxes. This act is intended to allow the department of  
13 revenue to more equitably and efficiently administer the transfer taxes  
14 imposed under chapter 83.100 RCW.

15 **PART I**

16 **ADDING ADMINISTRATIVE PROVISIONS TO CHAPTER 83.100 RCW**

1        NEW SECTION.    **Sec. 101.**    A new section is added to chapter 83.100  
2    RCW to read as follows:

3        (1) The following provisions of chapter 82.32 RCW have full force  
4    and application with respect to the taxes imposed under this chapter  
5    unless the context clearly requires otherwise:    RCW 82.32.070(1),  
6    82.32.090 (3) and (6), 82.32.100 (1) and (2), 82.32.105, 82.32.110,  
7    82.32.120, 82.32.130, 82.32.160, 82.32.170, 82.32.180, 82.32.190,  
8    82.32.200, 82.32.210, 82.32.220, 82.32.230, 82.32.235, 82.32.237,  
9    82.32.245, 82.32.265, 82.32.280, 82.32.310, 82.32.320, 82.32.330,  
10    82.32.340, 82.32.380, and 82.32.410.

11        (2) The periods of limitation contained in RCW 83.100.090,  
12    83.100.130, and section 102 of this act apply in place of any periods  
13    of limitation described in provisions of chapter 82.32 RCW applicable  
14    to this chapter.

15        (3) Unless the context clearly requires otherwise, the definitions  
16    in RCW 83.100.020 have full force and application with respect to  
17    provisions of chapter 82.32 RCW applicable to this chapter.

18        NEW SECTION.    **Sec. 102.**    A new section is added to chapter 83.100  
19    RCW to read as follows:

20        (1) If upon examination of any returns or from other information  
21    obtained by the department it appears that a tax or penalty has been  
22    paid less than that properly due, the department shall assess against  
23    the taxpayer such additional amount found to be due and shall add  
24    interest as provided in RCW 83.100.070.    The department shall notify  
25    the taxpayer by mail of the additional amount and the additional amount  
26    shall become due and shall be paid within thirty days from the date of  
27    the notice, or within such further time as the department may provide.

28        (2) No assessment or correction of an assessment for additional  
29    taxes, penalties, or interest due may be made by the department more  
30    than four years after the close of the calendar year in which a return  
31    is due, except upon a showing of fraud or of misrepresentation of a  
32    material fact by the taxpayer or as provided under subsection (3) or  
33    (4) of this section.

34        (3) For persons liable for tax under RCW 83.100.120, the period for  
35    assessment or correction of an assessment shall extend an additional  
36    three years beyond the period described in subsection (2) of this  
37    section.

1 (4) Upon a request by the department, a taxpayer may extend the  
2 periods of limitation under subsection (2) or (3) of this section by  
3 executing a written waiver of the periods of limitation. The execution  
4 of the waiver shall also extend the period for making a refund as  
5 provided in RCW 83.100.130.

6 **Sec. 103.** RCW 83.100.130 and 1997 c 157 s 6 are each amended to  
7 read as follows:

8 (1) (~~Whenever~~) If, upon receipt of an application by a taxpayer  
9 for a refund or upon an examination of the returns or records of any  
10 person, the department determines that a (~~person required to file the~~  
11 federal return)) taxpayer has, within the periods for assessment under  
12 section 102 of this act, overpaid the tax, penalties, or interest due  
13 under this chapter, the department shall refund the amount of the  
14 overpayment, together with interest at the then existing rate under RCW  
15 83.100.070(1). If the application for refund, with supporting  
16 documents, is filed within four months after an adjustment or final  
17 determination of federal tax liability, the department shall pay  
18 interest until the date the refund is mailed. If the application for  
19 refund, with supporting documents, is filed after four months after the  
20 adjustment or final determination, the department shall pay interest  
21 only until the end of the four-month period.

22 (2) Interest refunded under this section for periods after January  
23 1, 1997, through December 31, 1998, shall be computed on a daily basis  
24 at the rate as computed under RCW 82.32.050(2) less one percentage  
25 point. Interest allowed after December 31, 1998, shall be computed at  
26 the rate as computed under RCW 82.32.050(2). Interest shall be  
27 refunded from the date of overpayment until the date the refund is  
28 mailed. The rate so computed shall be adjusted on the first day of  
29 January of each year.

30 (3) Except as otherwise provided in subsection (4) of this section  
31 and RCW 83.100.090, no refund shall be made for taxes, penalties, or  
32 interest paid more than four years prior to the beginning of the  
33 calendar year in which the refund application is made or an examination  
34 of records is complete.

35 (4) The execution of a written waiver under section 102 of this act  
36 shall extend the time for making a refund if, prior to the expiration

1 of the waiver period, an application for refund is made by the taxpayer  
2 or the department discovers a refund is due.

3 (5) An application for refund shall be on a form prescribed by the  
4 department and shall contain any information and supporting documents  
5 as the department prescribes.

6 **Sec. 104.** RCW 83.100.090 and 1988 c 64 s 10 are each amended to  
7 read as follows:

8 Notwithstanding the expiration of the periods of limitation in  
9 section 102 of this act and RCW 83.100.130:

10 (1) If ~~((the person required to file the federal return))~~ a  
11 taxpayer files an amended federal return, that person shall  
12 ~~((immediately))~~ file with the department an amended Washington return  
13 with a copy of the amended federal return within one hundred twenty  
14 days of filing the amended federal return. If the amended Washington  
15 return requires payment of an additional tax under this chapter, the  
16 tax shall be paid in accordance with RCW 83.100.060 and interest shall  
17 be paid in accordance with RCW 83.100.070.

18 (2) Upon any adjustment in, or final determination of, the amount  
19 of federal tax due~~(( $\tau$ ))~~ or the amount of the decedent's gross estate by  
20 the internal revenue service of the United States, the United States  
21 tax court, or any court of competent jurisdiction, the ~~((person~~  
22 ~~required to file the federal return))~~ taxpayer shall notify the  
23 department in writing within ~~((sixty days after))~~ one hundred twenty  
24 days of the adjustment or final determination.

25 (3) If the department determines the amended return, adjustment, or  
26 final determination requires payment of an additional tax under this  
27 chapter, the department may assess against the taxpayer such additional  
28 amount found to be due within one year of receipt of written notice, or  
29 at any time if the taxpayer fails to provide written notice, as  
30 required in subsection (1) or (2) of this section. The execution of a  
31 written waiver at the request of the department by the taxpayer may  
32 extend this limitation. The tax shall be paid in accordance with RCW  
33 83.100.060 and interest shall be paid in accordance with RCW  
34 83.100.070.

35 (4) If the department determines the amended return, adjustment, or  
36 final determination requires the refund of overpaid tax, penalties, or  
37 interest under this chapter, the department shall refund the amount of

1 the overpayment with interest in accordance with RCW 83.100.070. No  
2 refund shall be made unless notice is provided as required in  
3 subsection (1) or (2) of this section. The taxpayer shall provide the  
4 department with any additional information or supporting documents  
5 necessary to determine if a refund is due. The execution of a written  
6 waiver of the period for assessment under subsection (3) of this  
7 section shall extend the time for making a refund, if prior to the  
8 expiration of the waiver period an application for refund of such taxes  
9 is made by the taxpayer or the department discovers a refund is due.

10 **Sec. 105.** RCW 83.100.210 and 1996 c 149 s 18 are each amended to  
11 read as follows:

12 The department may enter into closing agreements as provided in RCW  
13 82.32.350 and 82.32.360. In the event of a concurrent audit of a  
14 taxpayer by the department and the federal government or concurrent  
15 appeals by a taxpayer before the department and the federal government,  
16 the department may in its sole discretion agree in writing to accept a  
17 future determination by the federal government of a question of fact.

18 **PART II**  
19 **ADJUSTING THE ESTATE TAX APPORTIONMENT FORMULA**

20 **Sec. 201.** RCW 83.100.040 and 1988 c 64 s 4 are each amended to  
21 read as follows:

22 (1) A tax in an amount computed as provided in this section is  
23 imposed on every transfer of property located in Washington (~~of every~~  
24 ~~nonresident~~)).

25 (2) The tax shall be computed by multiplying the federal credit by  
26 a fraction, the numerator of which is the value of the property located  
27 in Washington, and the denominator of which is the value of the  
28 decedent's gross estate.

29 ~~(3) ((The transfer of the property of a nonresident is exempt from~~  
30 ~~the tax imposed by this section to the extent that the property of~~  
31 ~~residents is exempt from taxation under the laws of the state in which~~  
32 ~~the nonresident is domiciled.))~~ For the purposes of this section, any  
33 intangible personal property owned by a resident is located in  
34 Washington.



- 1 (b) Appeals from a county board of equalization pursuant to RCW  
2 84.08.130.
- 3 (c) Appeals by an assessor or landowner from an order of the  
4 director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if  
5 filed with the board of tax appeals within thirty days after the  
6 mailing of the order, the right to such an appeal being hereby  
7 established.
- 8 (d) Appeals by an assessor or owner of an intercounty public  
9 utility or private car company from determinations by the director of  
10 revenue of equalized assessed valuation of property and the  
11 apportionment thereof to a county made pursuant to chapter 84.12 and  
12 84.16 RCW, if filed with the board of tax appeals within thirty days  
13 after mailing of the determination, the right to such appeal being  
14 hereby established.
- 15 (e) Appeals by an assessor, landowner, or owner of an intercounty  
16 public utility or private car company from a determination of any  
17 county indicated ratio for such county compiled by the department of  
18 revenue pursuant to RCW 84.48.075: PROVIDED, That
- 19 (i) Said appeal be filed after review of the ratio under RCW  
20 84.48.075(3) and not later than fifteen days after the mailing of the  
21 certification; and
- 22 (ii) The hearing before the board shall be expeditiously held in  
23 accordance with rules prescribed by the board and shall take precedence  
24 over all matters of the same character.
- 25 (f) Appeals from the decisions of sale price of second class  
26 shorelands on navigable lakes by the department of natural resources  
27 pursuant to RCW 79.94.210.
- 28 (g) Appeals from urban redevelopment property tax apportionment  
29 district proposals established by governmental ordinances pursuant to  
30 RCW 39.88.060.
- 31 (h) Appeals from interest rates as determined by the department of  
32 revenue for use in valuing farmland under current use assessment  
33 pursuant to RCW 84.34.065.
- 34 (i) Appeals from revisions to stumpage value tables used to  
35 determine value by the department of revenue pursuant to RCW 84.33.091.
- 36 (j) Appeals from denial of tax exemption application by the  
37 department of revenue pursuant to RCW 84.36.850.
- 38 (k) Appeals pursuant to RCW 84.40.038(3).

1       (1) Appeals pursuant to section 303 of this act.

2       (2) Except as otherwise specifically provided by law hereafter, the  
3 provisions of RCW 1.12.070 shall apply to all notices of appeal filed  
4 with the board of tax appeals.

5       NEW SECTION.   **Sec. 303.** A new section is added to chapter 83.100  
6 RCW to read as follows:

7       If the sole issue for appeal is the value of property contained in  
8 the gross estate, a person otherwise entitled to petition the  
9 department for a correction of the tax imposed by this chapter pursuant  
10 to RCW 82.32.160 or 82.32.170 may include in its petition a request for  
11 a direct appeal to the board of tax appeals. The department in its  
12 sole discretion may grant or deny the request. The department shall  
13 notify the petitioner of its decision by mail.

14       **Sec. 304.** RCW 82.03.180 and 2000 c 103 s 4 are each amended to  
15 read as follows:

16       Judicial review of a decision of the board of tax appeals shall be  
17 de novo in accordance with the provisions of RCW 82.32.180 or 84.68.020  
18 as applicable except when the decision has been rendered pursuant to a  
19 formal hearing elected under RCW 82.03.140 or 82.03.190, in which event  
20 judicial review may be obtained only pursuant to RCW 34.05.510 through  
21 34.05.598: PROVIDED, HOWEVER, That nothing herein shall be construed  
22 to modify the rights of a taxpayer conferred by RCW 82.32.180 and  
23 84.68.020 to sue for tax refunds: AND PROVIDED FURTHER, That no review  
24 from a decision made pursuant to RCW 82.03.130(1)(a) may be obtained by  
25 a taxpayer unless within the petition period provided by RCW 34.05.542  
26 the taxpayer shall have first paid in full the contested tax, together  
27 with all penalties and interest thereon, if any, except for taxes  
28 imposed pursuant to chapter 83.100 RCW that are not required to be paid  
29 under section 306 of this act. The director of revenue shall have the  
30 same right of review from a decision made pursuant to RCW  
31 82.03.130(1)(a) as does a taxpayer; and the director of revenue and all  
32 parties to an appeal under RCW 82.03.130(1)(e) shall have the right of  
33 review from a decision made pursuant to RCW 82.03.130(1)(e).

34       **Sec. 305.** RCW 82.03.190 and 1998 c 54 s 2 are each amended to read  
35 as follows:



1        Any person having received notice of a denial of a petition or a  
2 notice of determination made under RCW 82.32.160, 82.32.170, 82.34.110,  
3 or 82.49.060 or having received notice of a granted request for direct  
4 review under section 303 of this act may appeal by filing in accordance  
5 with RCW 1.12.070 a notice of appeal with the board of tax appeals  
6 within thirty days after the mailing of the notice of such denial  
7 (~~(or)~~), determination, or granted request. In the notice of appeal the  
8 taxpayer shall set forth the amount of the tax which the taxpayer  
9 contends should be reduced or refunded and the reasons for such  
10 reduction or refund, in accordance with rules of practice and procedure  
11 prescribed by the board. However, if the notice of appeal relates to  
12 an application made to the department under chapter 82.34 RCW, the  
13 taxpayer shall set forth the amount to which the taxpayer claims the  
14 credit or exemption should apply, and the grounds for such contention,  
15 in accordance with rules of practice and procedure prescribed by the  
16 board. The board shall transmit a copy of the notice of appeal to the  
17 department and all other named parties within thirty days of its  
18 receipt by the board. If the taxpayer intends that the hearing before  
19 the board be held pursuant to the administrative procedure act (chapter  
20 34.05 RCW), the notice of appeal shall also so state. In the event  
21 that the notice of appeal does not so state, the department may, within  
22 thirty days from the date of its receipt of the notice of appeal, file  
23 with the board notice of its intention that the hearing be held  
24 pursuant to the administrative procedure act.

25        NEW SECTION.    **Sec. 306.**    A new section is added to chapter 83.100  
26 RCW to read as follows:

27        (1) Except as provided in subsection (2) of this section, all  
28 taxes, penalties, and interest imposed under this chapter shall be paid  
29 in full before any action may be instituted in any court to contest all  
30 or any part of the taxes, penalties, or interest. No restraining order  
31 or injunction shall be granted or issued by any court or judge to  
32 restrain or enjoin the collection of any tax or penalty or any part  
33 thereof, except upon the ground that the assessment was in violation of  
34 the Constitution of the United States or that of the state.

35        (2) No taxes, penalties, or interest imposed by this chapter are  
36 required to be paid before judicial review if the taxpayer institutes  
37 an action with the superior court of Thurston county within:

- 1 (a) Sixty days of the issuance of a notice of tax due under section
- 2 102 of this act;
- 3 (b) Sixty days of the mailing of a notice of a denial of a petition
- 4 or a notice of a determination under RCW 82.32.160; or
- 5 (c) Thirty days of a decision of the board of tax appeals, if the
- 6 tax was not paid prior to review by the board.

7 **PART IV**  
8 **REPEALING THE GENERATION-SKIPPING TRANSFER TAX**  
9 **AND ADDING A DEFINITION OF "TAXPAYER"**

10 **Sec. 401.** RCW 83.100.020 and 2001 c 320 s 15 are each amended to  
11 read as follows:

12 As used in this chapter:

- 13 (1) "Decedent" means a deceased individual;
- 14 (2) "Department" means the department of revenue, the director of
- 15 that department, or any employee of the department exercising authority
- 16 lawfully delegated to him by the director;
- 17 (3) "Federal credit" means (~~((a) for a transfer,~~) the maximum
- 18 amount of the credit for state taxes allowed by section 2011 of the
- 19 Internal Revenue Code(~~(; and (b) for a generation skipping transfer,~~
- 20 ~~the maximum amount of the credit for state taxes allowed by section~~
- 21 ~~2604 of the Internal Revenue Code));~~
- 22 (4) "Federal return" means any tax return required by chapter 11
- 23 (~~(or 13)~~) of the Internal Revenue Code;
- 24 (5) "Federal tax" means (~~((a) for a transfer,~~) a tax under chapter
- 25 11 of the Internal Revenue Code(~~(; and (b) for a generation skipping~~
- 26 ~~transfer, the tax under chapter 13 of the Internal Revenue Code;~~
- 27 ~~(6) "Generation skipping transfer" means a "generation skipping~~
- 28 ~~transfer" as defined and used in section 2611 of the Internal Revenue~~
- 29 ~~Code));~~
- 30 (~~((7))~~) (6) "Gross estate" means "gross estate" as defined and used
- 31 in section 2031 of the Internal Revenue Code;
- 32 (~~((8))~~) (7) "Nonresident" means a decedent who was domiciled
- 33 outside Washington at his death;
- 34 (~~((9))~~) (8) "Person" means any individual, estate, trust, receiver,
- 35 cooperative association, club, corporation, company, firm, partnership,

1 joint venture, syndicate, or other entity and, to the extent permitted  
2 by law, any federal, state, or other governmental unit or subdivision  
3 or agency, department, or instrumentality thereof;

4 ~~((10))~~ (9) "Person required to file the federal return" means any  
5 person required to file a return required by chapter 11 ~~((or 13))~~ of  
6 the Internal Revenue Code, such as the personal representative of an  
7 estate ~~((; or a transferor, trustee, or beneficiary of a generation-~~  
8 ~~skipping transfer;))~~ or a qualified heir with respect to qualified real  
9 property, as defined and used in section 2032A(c) of the Internal  
10 Revenue Code;

11 ~~((11))~~ (10) "Property" means ~~((a) for a transfer,~~) property  
12 included in the gross estate; ~~((and (b) for a generation skipping~~  
13 ~~transfer, all real and personal property subject to the federal tax;))~~

14 ~~((12))~~ (11) "Resident" means a decedent who was domiciled in  
15 Washington at time of death;

16 (12) "Taxpayer" means a person upon whom tax is imposed under this  
17 chapter, including an estate or a person liable for tax under RCW  
18 83.100.120;

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

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

25 ~~(15))~~ "Internal Revenue Code" means, for the purposes of this  
26 chapter and RCW 83.110.010, the United States Internal Revenue Code of  
27 1986, as amended or renumbered as of January 1, 2001.

28 **Sec. 402.** RCW 83.100.110 and 1988 c 64 s 11 are each amended to  
29 read as follows:

30 (1) Unless any tax due under this chapter is sooner paid in full,  
31 it shall be a lien upon the property subject to the tax for a period of  
32 ten years from the date of the transfer ~~((or the generation skipping~~  
33 ~~transfer)),~~ except that any part of the property which is used for the  
34 payment of claims against the property or expenses of its  
35 administration, allowed by any court having jurisdiction thereof, shall  
36 be divested of the lien. Liens created under this subsection shall be  
37 qualified as follows:

1 (a) Any part of the property subject to the tax which is sold to a  
2 bona fide purchaser shall be divested of the lien and the lien shall be  
3 transferred to the proceeds of the sale; and

4 (b) The lien shall be subordinate to any mortgage or deed of trust  
5 on the property pursuant to an order of court for payment of claims  
6 against the property or expenses of administration. The lien shall  
7 attach to any proceeds from the sale of the property in excess of the  
8 obligations secured by the mortgage or deed of trust and the expenses  
9 of sale, including a reasonable charge by the trustee and by his or her  
10 attorney where the property has been sold by a nonjudicial trustee's  
11 sale pursuant to chapter 61.24 RCW, and including court costs and any  
12 attorneys' fees awarded by the superior court of the county in which  
13 the property is sold at sheriff's sale pursuant to a judicial  
14 foreclosure of the mortgage or deed of trust.

15 (2) If the person required to file the federal return has obtained  
16 an extension of time for payment of the federal tax or has elected to  
17 pay such tax in installments, the tax lien under this section shall be  
18 extended as necessary to prevent its expiration prior to twelve months  
19 following the expiration of any such extension or the installment.

20 (3) The tax lien shall be extended as necessary to prevent its  
21 expiration prior to twelve months following the conclusion of  
22 litigation of any question affecting the determination of the amount of  
23 tax due if a lis pendens has been filed with the auditor of the county  
24 in which the property is located.

25 NEW SECTION. **Sec. 403.** RCW 83.100.045 (Generation-skipping  
26 transfers--Tax imposed--Credit for tax paid to another state) and 1988  
27 c 64 s 5 are each repealed.

28 NEW SECTION. **Sec. 404.** Sections 401 through 403 of this act apply  
29 to transfers resulting from deaths occurring on or after January 1,  
30 2004.

31 **PART V**

32 **TECHNICAL CORRECTIONS TO CHAPTER 82.32 RCW**

33 **Sec. 501.** RCW 82.32.070 and 1999 c 358 s 14 are each amended to  
34 read as follows:

1 (1) Every person liable for any fee or tax imposed by chapters  
2 82.04 through 82.27 or 83.100 RCW shall keep and preserve, for a period  
3 of five years, suitable records as may be necessary to determine the  
4 amount of any tax for which he may be liable, which records shall  
5 include copies of all federal income tax and state tax returns and  
6 reports made by him. All his books, records, and invoices shall be  
7 open for examination at any time by the department of revenue. In the  
8 case of an out-of-state person or concern which does not keep the  
9 necessary books and records within this state, it shall be sufficient  
10 if it produces within the state such books and records as shall be  
11 required by the department of revenue, or permits the examination by an  
12 agent authorized or designated by the department of revenue at the  
13 place where such books and records are kept. Any person who fails to  
14 comply with the requirements of this section shall be forever barred  
15 from questioning, in any court action or proceedings, the correctness  
16 of any assessment of taxes made by the department of revenue based upon  
17 any period for which such books, records, and invoices have not been so  
18 kept and preserved.

19 (2) A person liable for any fee or tax imposed by chapters 82.04  
20 through 82.27 RCW who contracts with another person or entity for work  
21 subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a  
22 record of the unified business identifier account number for the person  
23 or entity performing the work. Failure to obtain or maintain the  
24 record is subject to RCW 39.06.010 and to a penalty determined by the  
25 director, but not to exceed two hundred fifty dollars. The department  
26 shall notify the taxpayer and collect the penalty in the same manner as  
27 penalties under RCW 82.32.100.

28 **Sec. 502.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to  
29 read as follows:

30 (1) If the department of revenue finds that the payment by a  
31 taxpayer of a tax less than that properly due or the failure of a  
32 taxpayer to pay any tax by the due date was the result of circumstances  
33 beyond the control of the taxpayer, the department of revenue shall  
34 waive or cancel any penalties imposed under this chapter or chapter  
35 83.100 RCW with respect to such tax.

36 (2) The department shall waive or cancel the penalty imposed under

1 RCW 82.32.090(1) when the circumstances under which the delinquency  
2 occurred do not qualify for waiver or cancellation under subsection (1)  
3 of this section if:

4 (a) The taxpayer requests the waiver for a tax return required to  
5 be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060,  
6 82.29A.050, or 84.33.086; and

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

11 (3) The department shall waive or cancel interest imposed under  
12 this chapter or chapter 83.100 RCW if:

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

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

18 (4) The department of revenue shall adopt rules for the waiver or  
19 cancellation of penalties and interest imposed by this chapter or  
20 chapter 83.100 RCW.

21 **Sec. 503.** RCW 82.32.265 and 1987 c 80 s 5 are each amended to read  
22 as follows:

23 (1) The department may retain, by written contract, collection  
24 agencies licensed under chapter 19.16 RCW or licensed under the laws of  
25 another state or the District of Columbia for the purpose of collecting  
26 from sources outside the state of Washington taxes including interest  
27 and penalties thereon imposed under this title (~~and~~) RCW 84.33.041,  
28 and chapter 83.100 RCW.

29 (2) Only accounts represented by tax warrants filed in the superior  
30 court of a county in the state as provided by RCW 82.32.210 may be  
31 assigned to a collection agency, and no such assignment may be made  
32 unless the department has previously notified or has attempted to  
33 notify the taxpayer of his or her right to petition for correction of  
34 assessment within the time provided and in accordance with the  
35 procedures set forth in chapter 82.32 RCW.

36 (3) Collection agencies assigned accounts for collection under this  
37 section shall have only those remedies and powers that would be

1 available to them as assignees of private creditors. However, nothing  
2 in this section limits the right to enforce the liability for taxes  
3 lawfully imposed under the laws of this state in the courts of another  
4 state or the District of Columbia as provided by the laws of such  
5 jurisdictions and RCW 4.24.140 and 4.24.150.

6 (4) The account of the taxpayer shall be credited with the amounts  
7 collected by a collection agency before reduction for reasonable  
8 collection costs, including attorneys fees, that the department is  
9 authorized to negotiate on a contingent fee or other basis.

10 **Sec. 504.** RCW 82.32.330 and 2000 c 173 s 1 and 2000 c 106 s 1 are  
11 each reenacted and amended to read as follows:

12 (1) For purposes of this section:

13 (a) "Disclose" means to make known to any person in any manner  
14 whatever a return or tax information;

15 (b) "Return" means a tax or information return or claim for refund  
16 required by, or provided for or permitted under, the laws of this state  
17 which is filed with the department of revenue by, on behalf of, or with  
18 respect to a person, and any amendment or supplement thereto, including  
19 supporting schedules, attachments, or lists that are supplemental to,  
20 or part of, the return so filed;

21 (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
22 nature, source, or amount of the taxpayer's income, payments, receipts,  
23 deductions, exemptions, credits, assets, liabilities, net worth, tax  
24 liability deficiencies, overassessments, or tax payments, whether taken  
25 from the taxpayer's books and records or any other source, (iii)  
26 whether the taxpayer's return was, is being, or will be examined or  
27 subject to other investigation or processing, (iv) a part of a written  
28 determination that is not designated as a precedent and disclosed  
29 pursuant to RCW 82.32.410, or a background file document relating to a  
30 written determination, and (v) other data received by, recorded by,  
31 prepared by, furnished to, or collected by the department of revenue  
32 with respect to the determination of the existence, or possible  
33 existence, of liability, or the amount thereof, of a person under the  
34 laws of this state for a tax, penalty, interest, fine, forfeiture, or  
35 other imposition, or offense: PROVIDED, That data, material, or  
36 documents that do not disclose information related to a specific or  
37 identifiable taxpayer do not constitute tax information under this

1 section. Except as provided by RCW 82.32.410, nothing in this chapter  
2 shall require any person possessing data, material, or documents made  
3 confidential and privileged by this section to delete information from  
4 such data, material, or documents so as to permit its disclosure;

5 (d) "State agency" means every Washington state office, department,  
6 division, bureau, board, commission, or other state agency;

7 (e) "Taxpayer identity" means the taxpayer's name, address,  
8 telephone number, registration number, or any combination thereof, or  
9 any other information disclosing the identity of the taxpayer; and

10 (f) "Department" means the department of revenue or its officer,  
11 agent, employee, or representative.

12 (2) Returns and tax information shall be confidential and  
13 privileged, and except as authorized by this section, neither the  
14 department of revenue nor any other person may disclose any return or  
15 tax information.

16 (3) The foregoing, however, shall not prohibit the department of  
17 revenue from:

18 (a) Disclosing such return or tax information in a civil or  
19 criminal judicial proceeding or an administrative proceeding:

20 (i) In respect of any tax imposed under the laws of this state if  
21 the taxpayer or its officer or other person liable under Title 82 RCW  
22 or chapter 83.100 RCW is a party in the proceeding; or

23 (ii) In which the taxpayer about whom such return or tax  
24 information is sought and another state agency are adverse parties in  
25 the proceeding;

26 (b) Disclosing, subject to such requirements and conditions as the  
27 director shall prescribe by rules adopted pursuant to chapter 34.05  
28 RCW, such return or tax information regarding a taxpayer to such  
29 taxpayer or to such person or persons as that taxpayer may designate in  
30 a request for, or consent to, such disclosure, or to any other person,  
31 at the taxpayer's request, to the extent necessary to comply with a  
32 request for information or assistance made by the taxpayer to such  
33 other person: PROVIDED, That tax information not received from the  
34 taxpayer shall not be so disclosed if the director determines that such  
35 disclosure would compromise any investigation or litigation by any  
36 federal, state, or local government agency in connection with the civil  
37 or criminal liability of the taxpayer or another person, or that such  
38 disclosure would identify a confidential informant, or that such



1 disclosure is contrary to any agreement entered into by the department  
2 that provides for the reciprocal exchange of information with other  
3 government agencies which agreement requires confidentiality with  
4 respect to such information unless such information is required to be  
5 disclosed to the taxpayer by the order of any court;

6 (c) Disclosing the name of a taxpayer with a deficiency greater  
7 than five thousand dollars and against whom a warrant under RCW  
8 82.32.210 has been either issued or filed and remains outstanding for  
9 a period of at least ten working days. The department shall not be  
10 required to disclose any information under this subsection if a  
11 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued  
12 a warrant that has not been filed; and (iii) has entered a deferred  
13 payment arrangement with the department of revenue and is making  
14 payments upon such deficiency that will fully satisfy the indebtedness  
15 within twelve months;

16 (d) Disclosing the name of a taxpayer with a deficiency greater  
17 than five thousand dollars and against whom a warrant under RCW  
18 82.32.210 has been filed with a court of record and remains  
19 outstanding;

20 (e) Publishing statistics so classified as to prevent the  
21 identification of particular returns or reports or items thereof;

22 (f) Disclosing such return or tax information, for official  
23 purposes only, to the governor or attorney general, or to any state  
24 agency, or to any committee or subcommittee of the legislature dealing  
25 with matters of taxation, revenue, trade, commerce, the control of  
26 industry or the professions;

27 (g) Permitting the department of revenue's records to be audited  
28 and examined by the proper state officer, his or her agents and  
29 employees;

30 (h) Disclosing any such return or tax information to a peace  
31 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for  
32 official purposes. The disclosure may be made only in response to a  
33 search warrant, subpoena, or other court order, unless the disclosure  
34 is for the purpose of criminal tax enforcement. A peace officer or  
35 county prosecuting attorney who receives the return or tax information  
36 may disclose that return or tax information only for use in the  
37 investigation and a related court proceeding, or in the court

1 proceeding for which the return or tax information originally was  
2 sought;

3 (i) Disclosing any such return or tax information to the proper  
4 officer of the internal revenue service of the United States, the  
5 Canadian government or provincial governments of Canada, or to the  
6 proper officer of the tax department of any state or city or town or  
7 county, for official purposes, but only if the statutes of the United  
8 States, Canada or its provincial governments, or of such other state or  
9 city or town or county, as the case may be, grants substantially  
10 similar privileges to the proper officers of this state;

11 (j) Disclosing any such return or tax information to the Department  
12 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the  
13 Department of the Treasury, the Department of Defense, the United  
14 States Customs Service, the Coast Guard of the United States, and the  
15 United States Department of Transportation, or any authorized  
16 representative thereof, for official purposes;

17 (k) Publishing or otherwise disclosing the text of a written  
18 determination designated by the director as a precedent pursuant to RCW  
19 82.32.410;

20 (l) Disclosing, in a manner that is not associated with other tax  
21 information, the taxpayer name, entity type, business address, mailing  
22 address, revenue tax registration numbers, North American industry  
23 classification system or standard industrial classification code of a  
24 taxpayer, and the dates of opening and closing of business. This  
25 subsection shall not be construed as giving authority to the department  
26 to give, sell, or provide access to any list of taxpayers for any  
27 commercial purpose;

28 (m) Disclosing such return or tax information that is also  
29 maintained by another Washington state or local governmental agency as  
30 a public record available for inspection and copying under the  
31 provisions of chapter 42.17 RCW or is a document maintained by a court  
32 of record not otherwise prohibited from disclosure;

33 (n) Disclosing such return or tax information to the United States  
34 department of agriculture for the limited purpose of investigating food  
35 stamp fraud by retailers;

36 (o) Disclosing to a financial institution, escrow company, or title  
37 company, in connection with specific real property that is the subject

1 of a real estate transaction, current amounts due the department for a  
2 filed tax warrant, judgment, or lien against the real property; ((~~or~~))

3 (p) Disclosing to a person against whom the department has asserted  
4 liability as a successor under RCW 82.32.140 return or tax information  
5 pertaining to the specific business of the taxpayer to which the person  
6 has succeeded; or

7 (q) Disclosing to a person against whom the department has asserted  
8 liability under RCW 83.100.120 return or tax information pertaining to  
9 that person's liability for tax under chapter 83.100 RCW.

10 (4)(a) The department may disclose return or taxpayer information  
11 to a person under investigation or during any court or administrative  
12 proceeding against a person under investigation as provided in this  
13 subsection (4). The disclosure must be in connection with the  
14 department's official duties relating to an audit, collection activity,  
15 or a civil or criminal investigation. The disclosure may occur only  
16 when the person under investigation and the person in possession of  
17 data, materials, or documents are parties to the return or tax  
18 information to be disclosed. The department may disclose return or tax  
19 information such as invoices, contracts, bills, statements, resale or  
20 exemption certificates, or checks. However, the department may not  
21 disclose general ledgers, sales or cash receipt journals, check  
22 registers, accounts receivable/payable ledgers, general journals,  
23 financial statements, expert's workpapers, income tax returns, state  
24 tax returns, tax return workpapers, or other similar data, materials,  
25 or documents.

26 (b) Before disclosure of any tax return or tax information under  
27 this subsection (4), the department shall, through written  
28 correspondence, inform the person in possession of the data, materials,  
29 or documents to be disclosed. The correspondence shall clearly  
30 identify the data, materials, or documents to be disclosed. The  
31 department may not disclose any tax return or tax information under  
32 this subsection (4) until the time period allowed in (c) of this  
33 subsection has expired or until the court has ruled on any challenge  
34 brought under (c) of this subsection.

35 (c) The person in possession of the data, materials, or documents  
36 to be disclosed by the department has twenty days from the receipt of  
37 the written request required under (b) of this subsection to petition

1 the superior court of the county in which the petitioner resides for  
2 injunctive relief. The court shall limit or deny the request of the  
3 department if the court determines that:

4 (i) The data, materials, or documents sought for disclosure are  
5 cumulative or duplicative, or are obtainable from some other source  
6 that is more convenient, less burdensome, or less expensive;

7 (ii) The production of the data, materials, or documents sought  
8 would be unduly burdensome or expensive, taking into account the needs  
9 of the department, the amount in controversy, limitations on the  
10 petitioner's resources, and the importance of the issues at stake; or

11 (iii) The data, materials, or documents sought for disclosure  
12 contain trade secret information that, if disclosed, could harm the  
13 petitioner.

14 (d) The department shall reimburse reasonable expenses for the  
15 production of data, materials, or documents incurred by the person in  
16 possession of the data, materials, or documents to be disclosed.

17 (e) Requesting information under (b) of this subsection that may  
18 indicate that a taxpayer is under investigation does not constitute a  
19 disclosure of tax return or tax information under this section.

20 (5) Any person acquiring knowledge of any return or tax information  
21 in the course of his or her employment with the department of revenue  
22 and any person acquiring knowledge of any return or tax information as  
23 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this  
24 section, who discloses any such return or tax information to another  
25 person not entitled to knowledge of such return or tax information  
26 under the provisions of this section, is guilty of a misdemeanor. If  
27 the person guilty of such violation is an officer or employee of the  
28 state, such person shall forfeit such office or employment and shall be  
29 incapable of holding any public office or employment in this state for  
30 a period of two years thereafter.

31 **PART VI**  
32 **MISCELLANEOUS**

33 NEW SECTION. **Sec. 601.** The following acts or parts of acts are  
34 each repealed:

35 (1) RCW 83.100.030 (Residents--Estate tax imposed--Credit for tax  
36 paid other state) and 1988 c 64 s 3 & 1981 2nd ex.s. c 7 s 83.100.030;

- 1 (2) RCW 83.100.160 (Clerk to give notice of filings) and 1993 c 413  
2 s 1 & 1988 c 64 s 15;  
3 (3) RCW 83.100.170 (Court order) and 1988 c 64 s 16;  
4 (4) RCW 83.100.180 (Objections) and 1999 c 42 s 636 & 1988 c 64 s  
5 17; and  
6 (5) RCW 83.100.190 (Hearing by court) and 1988 c 64 s 18.

7 NEW SECTION. **Sec. 602.** Part headings used in this act are not any  
8 part of the law.

9 NEW SECTION. **Sec. 603.** This act applies to all returns not filed  
10 with the department of revenue before the effective date of this act.

11 NEW SECTION. **Sec. 604.** If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 remainder of the act or the application of the provision to other  
14 persons or circumstances is not affected.

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