

SSB 6385 - H COMM AMD
By Committee on Finance

1 Beginning on page 6, line 31, strike all of section 6 and insert
2 the following:

3 "Sec. 6. RCW 82.32.090 and 2003 1st sp.s. c 13 s 13 are each
4 amended to read as follows:

5 (1) If payment of any tax due on a return to be filed by a taxpayer
6 is not received by the department of revenue by the due date, there
7 shall be assessed a penalty of five percent of the amount of the tax;
8 and if the tax is not received on or before the last day of the month
9 following the due date, there shall be assessed a total penalty of
10 fifteen percent of the amount of the tax under this subsection; and if
11 the tax is not received on or before the last day of the second month
12 following the due date, there shall be assessed a total penalty of
13 twenty-five percent of the amount of the tax under this subsection. No
14 penalty so added shall be less than five dollars.

15 (2) If the department of revenue determines that any tax (~~is due~~)
16 has been substantially underpaid, there shall be assessed a penalty of
17 five percent of the amount of the tax determined by the department to
18 be due (~~is due~~). If payment of any tax determined by the department to
19 be due is not received by the department by the due date specified in
20 the notice, or any extension thereof, there shall be assessed a total
21 penalty of fifteen percent of the amount of the tax under this
22 subsection; and if (~~the~~) payment of any tax determined by the
23 department to be due is not received on or before the thirtieth day
24 following the due date specified in the notice of tax due, or any
25 extension thereof, there shall be assessed a total penalty of twenty-
26 five percent of the amount of the tax under this subsection. No
27 penalty so added shall be less than five dollars. As used in this
28 section, "substantially underpaid" means that the taxpayer has paid
29 less than eighty percent of the amount of tax determined by the

1 department to be due for all of the types of taxes included in, and for
2 the entire period of time covered by, the department's examination, and
3 the amount of underpayment is at least one thousand dollars.

4 (3) If a warrant be issued by the department of revenue for the
5 collection of taxes, increases, and penalties, there shall be added
6 thereto a penalty of ten percent of the amount of the tax, but not less
7 than ten dollars.

8 (4) If the department finds that a person has engaged in any
9 business or performed any act upon which a tax is imposed under this
10 title and that person has not obtained from the department a
11 registration certificate as required by RCW 82.32.030, the department
12 shall impose a penalty of five percent of the amount of tax due from
13 that person for the period that the person was not registered as
14 required by RCW 82.32.030. The department shall not impose the penalty
15 under this subsection (4) if a person who has engaged in business
16 taxable under this title without first having registered as required by
17 RCW 82.32.030, prior to any notification by the department of the need
18 to register, obtains a registration certificate from the department.

19 (5) If the department finds that all or any part of a deficiency
20 resulted from the disregard of specific written instructions as to
21 reporting or tax liabilities, the department shall add a penalty of ten
22 percent of the amount of the additional tax found due because of the
23 failure to follow the instructions. A taxpayer disregards specific
24 written instructions when the department of revenue has informed the
25 taxpayer in writing of the taxpayer's tax obligations and the taxpayer
26 fails to act in accordance with those instructions unless the
27 department has not issued final instructions because the matter is
28 under appeal pursuant to this chapter or departmental regulations. The
29 department shall not assess the penalty under this section upon any
30 taxpayer who has made a good faith effort to comply with the specific
31 written instructions provided by the department to that taxpayer.
32 Specific written instructions may be given as a part of a tax
33 assessment, audit, determination, or closing agreement, provided that
34 such specific written instructions shall apply only to the taxpayer
35 addressed or referenced on such documents. Any specific written
36 instructions by the department of revenue shall be clearly identified
37 as such and shall inform the taxpayer that failure to follow the

1 instructions may subject the taxpayer to the penalties imposed by this
2 subsection.

3 (6) If the department finds that all or any part of the deficiency
4 resulted from an intent to evade the tax payable hereunder, a further
5 penalty of fifty percent of the additional tax found to be due shall be
6 added.

7 (7) The penalties imposed under subsections (1) through (4) of this
8 section can each be imposed on the same tax found to be due. This
9 subsection does not prohibit or restrict the application of other
10 penalties authorized by law.

11 (8) The department of revenue may not impose both the evasion
12 penalty and the penalty for disregarding specific written instructions
13 on the same tax found to be due.

14 (9) For the purposes of this section, "return" means any document
15 a person is required by the state of Washington to file to satisfy or
16 establish a tax or fee obligation that is administered or collected by
17 the department of revenue, and that has a statutorily defined due
18 date."

19 Correct the title.

EFFECT: Provides a 5% penalty for "substantial underpayment" of
less than 80% of the tax due, if the amount of underpayment is at least
\$1,000.

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