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HOUSE BILL 2397

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State of Washington

60th Legislature

2007 Regular Session

By Representatives Hasegawa, Chase, Appleton, Roberts, Green, Kenney and Williams

Read first time 03/28/2007. Referred to Committee on Finance.

1 AN ACT Relating to raising revenue by restricting or eliminating  
2 tax exemptions, deductions, and credits; amending RCW 82.04.4281,  
3 82.04.4282, 82.08.037, and 82.12.037; creating new sections; repealing  
4 RCW 82.04.062, 82.04.315, 82.04.317, 82.04.4292, and 82.04.44525;  
5 providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The intent of this act is to make additional  
8 revenue available for appropriation for programs that are not  
9 adequately funded in the state budget, such as the following:  
10 (1) \$25,000,000 for the department of social and health services  
11 for increases to the general assistance unemployable (GAU) and  
12 temporary assistance for needy families (TANF) programs.  
13 (2) \$22,000,000 for the state health care authority for additional  
14 enrollment slots in the state basic health program.  
15 (3) \$15,000,000 for the department of social and health services  
16 for nursing home component rate increases.  
17 (4) \$14,000,000 for the department of corrections for offender  
18 transitional housing.

1 (5) \$10,000,000 for the department of social and health services to  
2 increase the wages of community mental health care workers.

3 (6) \$7,000,000 for the department of corrections for offender  
4 alcohol and substance abuse programs.

5 (7) \$7,000,000 for the department of corrections for offender  
6 mental health treatment.

7 **Sec. 2.** RCW 82.04.4281 and 2002 c 150 s 2 are each amended to read  
8 as follows:

9 (1) In computing tax there may be deducted from the measure of  
10 tax((÷

11 ~~(a))~~) amounts derived from investments((÷

12 ~~(b) Amounts derived as dividends or distributions from [the]~~  
13 ~~capital account by a parent from its subsidiary entities; and~~

14 ~~(c) Amounts derived from interest on loans between subsidiary~~  
15 ~~entities and a parent entity or between subsidiaries of a common parent~~  
16 ~~entity, but only if the total investment and loan income is less than~~  
17 ~~five percent of gross receipts of the business annually)).~~

18 (2) The following are not deductible under subsection (1)((~~(a))~~) of  
19 this section:

20 (a) Amounts received from loans((~~, except as provided in subsection~~  
21 ~~(1)(c) of this section,~~)) or the extension of credit to another,  
22 revolving credit arrangements, installment sales, the acceptance of  
23 payment over time for goods or services, or any of the foregoing that  
24 have been transferred by the originator of the same to an affiliate of  
25 the transferor; ((~~or~~))

26 (b) Amounts received by a banking, lending, or security business;  
27 or

28 (c) Amounts received by a corporation.

29 (3) The definitions in this subsection apply only to this section.

30 (a) "Banking business" means a person engaging in business as a  
31 national or state-chartered bank, a mutual savings bank, a savings and  
32 loan association, a trust company, an alien bank, a foreign bank, a  
33 credit union, a stock savings bank, or a similar entity that is  
34 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title  
35 12 U.S.C.

36 (b) "Lending business" means a person engaged in the business of  
37 making secured or unsecured loans of money, or extending credit, and

1 (i) more than one-half of the person's gross income is earned from such  
2 activities and (ii) more than one-half of the person's total  
3 expenditures are incurred in support of such activities.

4 (c) The terms "loan" and "extension of credit" do not include  
5 ownership of or trading in publicly traded debt instruments, or  
6 substantially equivalent instruments offered in a private placement.

7 (d) "Security business" means a person, other than an issuer, who  
8 is engaged in the business of effecting transactions in securities as  
9 a broker, dealer, or broker-dealer, as those terms are defined in the  
10 securities act of Washington, chapter 21.20 RCW, or the federal  
11 securities act of 1933. "Security business" does not include any  
12 company excluded from the definition of broker or dealer under the  
13 federal investment company act of 1940 or any entity that is not an  
14 investment company by reason of sections 3(c)(1) and 3(c)(3) through  
15 3(c)(14) thereof.

16 **Sec. 3.** RCW 82.04.4282 and 1994 c 124 s 3 are each amended to read  
17 as follows:

18 In computing tax there may be deducted from the measure of tax  
19 amounts derived from bona fide (1) initiation fees, (2) dues, (3)  
20 contributions, (4) donations, (5) tuition fees, (6) charges made by a  
21 nonprofit trade or professional organization for attending or occupying  
22 space at a trade show, convention, or educational seminar sponsored by  
23 the nonprofit trade or professional organization, which trade show,  
24 convention, or educational seminar is not open to the general public,  
25 (7) charges made for operation of privately operated kindergartens, and  
26 (8) endowment funds. With respect to initiation fees, the deduction  
27 authorized in this section only applies to the portion of initiation  
28 fees under one thousand dollars per membership. With respect to dues,  
29 the deduction authorized in this section only applies to the portion of  
30 dues under two hundred dollars per member per month. This section  
31 shall not be construed to exempt any person, association, or society  
32 from tax liability upon selling tangible personal property or upon  
33 providing facilities or services for which a special charge is made to  
34 members or others. If dues are in exchange for any significant amount  
35 of goods or services rendered by the recipient thereof to members  
36 without any additional charge to the member, or if the dues are

1 graduated upon the amount of goods or services rendered, the value of  
2 such goods or services shall not be considered as a deduction under  
3 this section.

4 **Sec. 4.** RCW 82.08.037 and 2004 c 153 s 302 are each amended to  
5 read as follows:

6 (1) A seller is entitled to a credit or refund for sales taxes  
7 previously paid on bad debts, as that term is used in 26 U.S.C. Sec.  
8 166, as amended or renumbered as of January 1, 2003.

9 (2) For purposes of this section, "bad debts" does not include:

10 (a) Amounts due on property that remains in the possession of the  
11 seller until the full purchase price is paid;

12 (b) Expenses incurred in attempting to collect debt; (~~and~~)

13 (c) Debts sold or assigned by the seller to third parties, where  
14 the third party is without recourse against the seller; and

15 (d) Repossessed property.

16 (3) If a credit or refund of sales tax is taken for a bad debt and  
17 the debt is subsequently collected in whole or in part, the tax on the  
18 amount collected must be paid and reported on the return filed for the  
19 period in which the collection is made.

20 (4) Payments on a previously claimed bad debt are applied first  
21 proportionally to the taxable price of the property or service and the  
22 sales or use tax thereon, and secondly to interest, service charges,  
23 and any other charges.

24 (5) If the seller uses a certified service provider as defined in  
25 RCW 82.58.010 to administer its sales tax responsibilities, the  
26 certified service provider may claim, on behalf of the seller, the  
27 credit or refund allowed by this section. The certified service  
28 provider must credit or refund the full amount received to the seller.

29 (6) The department shall allow an allocation of bad debts among  
30 member states to the streamlined sales tax agreement, as defined in RCW  
31 82.58.010(1), if the books and records of the person claiming bad debts  
32 support the allocation.

33 (7) A person's right to claim a credit or refund under this section  
34 is not assignable. No person other than the original seller in the  
35 transaction that generated the bad debt or, as provided in subsection  
36 (5) of this section, a certified service provider is entitled to claim  
37 a credit or refund under this section. If the original seller in the

1 transaction that generated the bad debt has sold or assigned the debt  
2 instrument to a third party with recourse, the original seller may  
3 claim a credit or refund under this section only after the debt  
4 instrument is reassigned by the third party to the original seller.

5 **Sec. 5.** RCW 82.12.037 and 2004 c 153 s 304 are each amended to  
6 read as follows:

7 (1) A seller is entitled to a credit or refund for use taxes  
8 previously paid on bad debts, as that term is used in 26 U.S.C. Sec.  
9 166, as amended or renumbered as of January 1, 2003.

10 (2) For purposes of this section, "bad debts" does not include:

11 (a) Amounts due on property that remains in the possession of the  
12 seller until the full purchase price is paid;

13 (b) Expenses incurred in attempting to collect debt; (~~and~~)

14 (c) Debts sold or assigned by the seller to third parties, where  
15 the third party is without recourse against the seller; and

16 (d) Repossessed property.

17 (3) If a credit or refund of use tax is taken for a bad debt and  
18 the debt is subsequently collected in whole or in part, the tax on the  
19 amount collected must be paid and reported on the return filed for the  
20 period in which the collection is made.

21 (4) Payments on a previously claimed bad debt are applied first  
22 proportionally to the taxable price of the property or service and the  
23 sales or use tax thereon, and secondly to interest, service charges,  
24 and any other charges.

25 (5) If the seller uses a certified service provider as defined in  
26 RCW 82.58.010 to administer its use tax responsibilities, the certified  
27 service provider may claim, on behalf of the seller, the credit or  
28 refund allowed by this section. The certified service provider must  
29 credit or refund the full amount received to the seller.

30 (6) The department shall allow an allocation of bad debts among  
31 member states to the streamlined sales and use tax agreement, as  
32 defined in RCW 82.58.010(1), if the books and records of the person  
33 claiming bad debts support the allocation.

34 (7) A person's right to claim a credit or refund under this section  
35 is not assignable. No person other than the original seller in the  
36 transaction that generated the bad debt or, as provided in subsection  
37 (5) of this section, a certified service provider is entitled to claim

1 a credit or refund under this section. If the original seller in the  
2 transaction that generated the bad debt has sold or assigned the debt  
3 instrument to a third party with recourse, the original seller may  
4 claim a credit or refund under this section only after the debt  
5 instrument is reassigned by the third party to the original seller.

6 NEW SECTION. Sec. 6. Sections 4 and 5 of this act apply to claims  
7 for credit or refund made after June 30, 2007.

8 NEW SECTION. Sec. 7. The legislature intends to supersede the  
9 holding of the supreme court of the state of Washington in *Puget Sound*  
10 *National Bank v. Department of Revenue*, 123 Wn.2d 284 (1994).

11 NEW SECTION. Sec. 8. The following acts or parts of acts are each  
12 repealed:

13 (1) RCW 82.04.062 ("Sale at wholesale," "sale at retail" excludes  
14 sale of precious metal bullion and monetized bullion--Computation of  
15 tax) and 1985 c 471 s 5;

16 (2) RCW 82.04.315 (Exemptions--International banking facilities)  
17 and 1982 c 95 s 7;

18 (3) RCW 82.04.317 (Exemptions--Motor vehicle sales by manufacturers  
19 at wholesale auctions to dealers) and 1997 c 4 s 1;

20 (4) RCW 82.04.4292 (Deductions--Interest on investments or loans  
21 secured by mortgages or deeds of trust) and 1980 c 37 s 12; and

22 (5) RCW 82.04.44525 (Credit--New employment for international  
23 service activities in eligible areas--Designation of census tracts for  
24 eligibility--Records--Tax due upon ineligibility--Interest assessment--  
25 Information from employment security department) and 1998 c 313 s 2.

26 NEW SECTION. Sec. 9. This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 July 1, 2007.

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