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HOUSE BILL 2982

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State of Washington

61st Legislature

2010 Regular Session

By Representatives Liias, McCoy, Sells, and Kenney; by request of Washington State Department of Commerce

Read first time 01/19/10. Referred to Committee on Finance.

1 AN ACT Relating to providing tax incentives for manufacturers of  
2 electronic testing and measurement devices; amending RCW 82.32.620,  
3 82.32.590, and 82.32.600; reenacting and amending RCW 82.04.440; adding  
4 new sections to chapter 82.04 RCW; providing an effective date;  
5 providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
8 to read as follows:

9 (1) Upon every eligible person engaging within this state in the  
10 business of manufacturing electronic testing or measurement devices, as  
11 to such persons the amount of tax with respect to such business is  
12 equal to the value of the product manufactured, multiplied by the rate  
13 of 0.2904 percent.

14 (2) In addition to all other requirements under this title, a  
15 person claiming the tax rate under this section must report as required  
16 under RCW 82.32.620.

17 (3) For purposes of this section, "eligible person" means a person  
18 whose value of electronic testing and measurement devices manufactured

1 in this state exceeded three hundred million dollars in the calendar  
2 year immediately preceding the calendar year of the tax reporting  
3 period for which the tax rate provided in this section is claimed.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
5 to read as follows:

6 (1) In computing the tax imposed under this chapter, a person  
7 eligible to report under section 1 of this act is allowed a credit for  
8 property taxes paid during the calendar year on buildings, the land  
9 upon which the buildings are located, and machinery and equipment, if  
10 the land, buildings, and machinery and equipment are used primarily for  
11 the manufacturing of electronic testing or measurement devices. The  
12 total credit allowed under this section for a person is limited to four  
13 hundred thousand dollars in a calendar year.

14 (2) A credit earned during one calendar year may be carried over to  
15 be credited against taxes incurred in the subsequent calendar year but  
16 may not be carried over a second year. No refunds may be granted for  
17 credits under this section.

18 (3) In addition to all other requirements under this title, a  
19 person claiming the credit under this section must report as required  
20 under RCW 82.32.620.

21 (4) No credit may be claimed for property taxes due and payable  
22 before July 1, 2010.

23 (5) Notwithstanding the expiration date of this section, credit  
24 accrued under this section before July 1, 2020, may be claimed on or  
25 after July 1, 2020. However, no credit earned under this section  
26 between January 1, 2020, and July 1, 2020, may be claimed after  
27 December 31, 2021.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW  
29 to read as follows:

30 (1) Subject to the requirements and limits in this section,  
31 eligible businesses are entitled to a credit against the tax due under  
32 this chapter. The credit equals four thousand dollars for each new  
33 qualified employment position with annual wages and benefits greater  
34 than fifty thousand dollars that is created by the eligible business on  
35 or after July 1, 2010, and filled for at least twelve consecutive  
36 months.

1 (2) Eligible businesses claiming a credit under this section must  
2 increase employment in an eligible area by at least one hundred new  
3 qualified employment positions between July 1, 2010, and July 1, 2011.

4 (3)(a) A credit under this section is earned when the new qualified  
5 employment position is filled.

6 (b) New qualified employment positions filled by existing employees  
7 are eligible for the credit under this section only if the position  
8 vacated by the existing employee is filled by a new hire.

9 (c) Once a new qualified employment position has been filled, a  
10 position does not cease to be a new qualified employment position  
11 solely due to periods in which the position goes vacant, as long as:

12 (i) The cumulative period of any vacancies in that position is not  
13 more than one hundred twenty days in the twelve consecutive month  
14 period for which the position must be filled; and

15 (ii) During a vacancy, the employer is training or actively  
16 recruiting a replacement permanent, full-time employee for the  
17 position.

18 (4)(a) The credit may be claimed against any tax liability incurred  
19 under this chapter after the credit is earned.

20 (b) For credit earned under this section before July 1, 2011, a  
21 person may claim the credit before the person has met the requirement  
22 in subsection (2) of this section. However, a person that does not  
23 meet the requirement in subsection (2) of this section and who has  
24 claimed a credit under this section must repay the amount of the credit  
25 as provided in subsection (10) of this section.

26 (c) The credit must be claimed on a return filed electronically  
27 with the department using the department's online tax filing service.  
28 The credit may be carried over until used. No refunds may be granted  
29 for credits under this section.

30 (5) No application is necessary for the credit. The eligible  
31 business must keep records necessary for the department to verify  
32 eligibility under this section.

33 (6) Credits are available on a first in-time basis. The department  
34 must disallow any credit, or portion of a credit, that would cause the  
35 total amount of credit claimed under this section during any fiscal  
36 year to exceed five hundred thousand dollars. If this limitation is  
37 reached, the department must provide written notice to any person who  
38 has claimed tax credits in excess of the five hundred thousand dollar

1 limitation in this subsection. The notice must indicate the amount of  
2 tax due and provide that the tax be paid within thirty days from the  
3 date of such notice. The department may not assess any penalties or  
4 interest on the amount due in the notice. However, if the full amount  
5 of tax due is not paid by the due date, the department must assess  
6 penalties and interest as provided in chapter 82.32 RCW on the amount  
7 of unpaid tax. Interest must be assessed retroactively to the date the  
8 tax credit was claimed and accrues until the amount of tax due is paid.

9 (7) No credit may be earned before July 1, 2010.

10 (8) The employment security department must provide to the  
11 department such information needed by the department to verify  
12 eligibility under this section.

13 (9) No eligible business may claim more than five hundred thousand  
14 dollars of total credit under this section.

15 (10) An eligible business must repay the amount of credit claimed  
16 under this section in excess of the limit in subsection (9) of this  
17 section. An eligible business must also repay any credit claimed under  
18 this section if the eligible business did not meet all of the  
19 requirements of this section. Applicable penalties and interest as  
20 provided in chapter 82.32 RCW apply to amounts due as provided in this  
21 subsection.

22 (11) Notwithstanding the expiration date of this section, credit  
23 accrued under this section before July 1, 2020, may be claimed on or  
24 after July 1, 2020.

25 (12) For purposes of this section, the following definitions apply:

26 (a) "Eligible area" means any county other than a rural county as  
27 defined in RCW 82.14.370 or a county that contains a community  
28 empowerment zone designated under chapter 43.31C RCW.

29 (b) "Eligible business" means a business taxable under section 1 of  
30 this act.

31 (c) "New qualified employment position" means a permanent, full-  
32 time employment position that did not previously exist. For purposes  
33 of this subsection, "full time" means a normal work week of at least  
34 thirty-five hours.

35 **Sec. 4.** RCW 82.04.440 and 2006 c 300 s 8 and 2006 c 84 s 6 are  
36 each reenacted and amended to read as follows:

37 (1) Every person engaged in activities that are subject to tax

1 under two or more provisions of RCW 82.04.230 through 82.04.298,  
2 inclusive, shall be taxable under each provision applicable to those  
3 activities.

4 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,  
5 82.04.294(2), or 82.04.260 (1)(c), (4), (11), or (12) with respect to  
6 selling products in this state, including those persons who are also  
7 taxable under RCW 82.04.261, shall be allowed a credit against those  
8 taxes for any (a) manufacturing taxes paid with respect to the  
9 manufacturing of products so sold in this state, and/or (b) extracting  
10 taxes paid with respect to the extracting of products so sold in this  
11 state or ingredients of products so sold in this state. Extracting  
12 taxes taken as credit under subsection (3) of this section may also be  
13 taken under this subsection, if otherwise allowable under this  
14 subsection. The amount of the credit shall not exceed the tax  
15 liability arising under this chapter with respect to the sale of those  
16 products.

17 (3) Persons taxable as manufacturers under RCW 82.04.240 or  
18 82.04.260 (1)(b) or (12), including those persons who are also taxable  
19 under RCW 82.04.261, shall be allowed a credit against those taxes for  
20 any extracting taxes paid with respect to extracting the ingredients of  
21 the products so manufactured in this state. The amount of the credit  
22 shall not exceed the tax liability arising under this chapter with  
23 respect to the manufacturing of those products.

24 (4) Persons taxable under RCW 82.04.230, 82.04.240, section 1 of  
25 this act, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1),  
26 (2), (4), (11), or (12), including those persons who are also taxable  
27 under RCW 82.04.261, with respect to extracting or manufacturing  
28 products in this state shall be allowed a credit against those taxes  
29 for any (i) gross receipts taxes paid to another state with respect to  
30 the sales of the products so extracted or manufactured in this state,  
31 (ii) manufacturing taxes paid with respect to the manufacturing of  
32 products using ingredients so extracted in this state, or (iii)  
33 manufacturing taxes paid with respect to manufacturing activities  
34 completed in another state for products so manufactured in this state.  
35 The amount of the credit shall not exceed the tax liability arising  
36 under this chapter with respect to the extraction or manufacturing of  
37 those products.

38 (5) For the purpose of this section:

1 (a) "Gross receipts tax" means a tax:

2 (i) Which is imposed on or measured by the gross volume of  
3 business, in terms of gross receipts or in other terms, and in the  
4 determination of which the deductions allowed would not constitute the  
5 tax an income tax or value added tax; and

6 (ii) Which is also not, pursuant to law or custom, separately  
7 stated from the sales price.

8 (b) "State" means (i) the state of Washington, (ii) a state of the  
9 United States other than Washington, or any political subdivision of  
10 such other state, (iii) the District of Columbia, and (iv) any foreign  
11 country or political subdivision thereof.

12 (c) "Manufacturing tax" means a gross receipts tax imposed on the  
13 act or privilege of engaging in business as a manufacturer, and  
14 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404,  
15 82.04.2909(1), 82.04.260 (1), (2), (4), (11), and (12), and  
16 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who  
17 are engaged in business as a manufacturer; and (iii) similar gross  
18 receipts taxes paid to other states.

19 (d) "Extracting tax" means a gross receipts tax imposed on the act  
20 or privilege of engaging in business as an extractor, and includes (i)  
21 the tax imposed on extractors in RCW 82.04.230 and 82.04.260(12); (ii)  
22 the tax imposed under RCW 82.04.261 on persons who are engaged in  
23 business as an extractor; and (iii) similar gross receipts taxes paid  
24 to other states.

25 (e) "Business", "manufacturer", "extractor", and other terms used  
26 in this section have the meanings given in RCW 82.04.020 through  
27 82.04.212, notwithstanding the use of those terms in the context of  
28 describing taxes imposed by other states.

29 **Sec. 5.** RCW 82.32.620 and 2005 c 301 s 4 are each amended to read  
30 as follows:

31 (1) The legislature finds that accountability and effectiveness are  
32 important aspects of setting tax policy. In order to make policy  
33 choices regarding the best use of limited state resources the  
34 legislature needs information on how a tax incentive is used.

35 (2)(a) A person who reports taxes under RCW 82.04.294 (~~shall~~) or  
36 section 1 of this act or who claims a credit under section 2 or 3 of  
37 this act must make an annual report to the department detailing

1 employment, wages, and employer-provided health and retirement benefits  
2 per job at the manufacturing site. The report (~~shall~~) may not  
3 include names of employees. The report shall also detail employment by  
4 the total number of full-time, part-time, and temporary positions. The  
5 first report filed under this subsection shall include employment,  
6 wage, and benefit information for the twelve-month period immediately  
7 before first use of a preferential tax rate under RCW 82.04.294 or  
8 section 1 of this act or a credit under section 2 or 3 of this act.  
9 The report is due by March 31st following any year in which a  
10 preferential tax rate under RCW 82.04.294 or section 1 of this act or  
11 a credit under section 2 or 3 of this act is used. The department may  
12 extend the due date of the report as provided in RCW 82.32.590. This  
13 information is not subject to the confidentiality provisions of RCW  
14 82.32.330.

15 (b) If a person fails to submit an annual report under (a) of this  
16 subsection, the department (~~shall~~) must declare the amount of taxes  
17 reduced for the previous calendar year to be immediately due and  
18 payable. Excise taxes payable under this subsection are subject to  
19 interest, but not penalties, at the rate provided for delinquent taxes,  
20 as provided under this chapter. The department (~~shall~~) must assess  
21 interest, retroactively to the date the preferential tax rate under RCW  
22 82.04.294 or section 1 of this act or a credit under section 2 or 3 of  
23 this act, was used. The interest (~~shall~~) must be assessed at the  
24 rate provided for delinquent excise taxes under this chapter, and  
25 (~~shall~~) accrue until the taxes for which the preferential tax rate  
26 or credit was used are repaid. This information is not subject to the  
27 confidentiality provisions of RCW 82.32.330.

28 **Sec. 6.** RCW 82.32.590 and 2009 c 461 s 7 are each amended to read  
29 as follows:

30 (1) If the department finds that the failure of a taxpayer to file  
31 an annual survey or annual report under RCW 82.04.4452, 82.32.5351,  
32 82.32.650, 82.32.630, 82.32.620, 82.32.610, 82.82.020, 82.32.632, or  
33 82.74.040 by the due date was the result of circumstances beyond the  
34 control of the taxpayer, the department shall extend the time for  
35 filing the survey or report. Such extension shall be for a period of  
36 thirty days from the date the department issues its written

1 notification to the taxpayer that it qualifies for an extension under  
2 this section. The department may grant additional extensions as it  
3 deems proper.

4 (2) In making a determination whether the failure of a taxpayer to  
5 file an annual survey or annual report by the due date was the result  
6 of circumstances beyond the control of the taxpayer, the department  
7 shall be guided by rules adopted by the department for the waiver or  
8 cancellation of penalties when the underpayment or untimely payment of  
9 any tax was due to circumstances beyond the control of the taxpayer.

10 **Sec. 7.** RCW 82.32.600 and 2009 c 461 s 8 are each amended to read  
11 as follows:

12 (1) Persons required to file annual surveys or annual reports under  
13 RCW 82.04.4452, 82.32.5351, 82.32.545, 82.32.610, 82.32.620, 82.32.630,  
14 82.82.020, 82.32.632, or 82.74.040 must electronically file with the  
15 department all surveys, reports, returns, and any other forms or  
16 information the department requires in an electronic format as provided  
17 or approved by the department. As used in this section, "returns" has  
18 the same meaning as "return" in RCW 82.32.050.

19 (2) Any survey, report, return, or any other form or information  
20 required to be filed in an electronic format under subsection (1) of  
21 this section is not filed until received by the department in an  
22 electronic format.

23 (3) The department may waive the electronic filing requirement in  
24 subsection (1) of this section for good cause shown.

25 NEW SECTION. **Sec. 8.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 9.** This act takes effect July 1, 2010.

30 NEW SECTION. **Sec. 10.** This act expires July 1, 2020.

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