
SENATE BILL 5962

State of Washington 61st Legislature 2009 Regular Session

By Senators Prentice, Hewitt, Pridemore, and Kilmer

Read first time 02/10/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to reducing the business and occupation tax rate on
2 the business of printing, and of publishing newspapers, magazines, or
3 periodicals; amending RCW 82.04.280, 82.04.280, 35.102.150, 82.08.806,
4 82.08.820, 82.08.820, and 82.12.020; amending 2006 c 300 s 12
5 (uncodified); reenacting and amending RCW 82.04.260, 82.04.050,
6 82.32.590, and 82.32.600; adding a new section to chapter 82.32 RCW;
7 providing effective dates; providing a contingent effective date;
8 providing an expiration date; providing a contingent expiration date;
9 and declaring an emergency.

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

11 **Sec. 1.** RCW 82.04.260 and 2008 c 296 s 1, 2008 c 217 s 100, and
12 2008 c 81 s 4 are each reenacted and amended to read as follows:

13 (1) Upon every person engaging within this state in the business of
14 manufacturing:

15 (a) Wheat into flour, barley into pearl barley, soybeans into
16 soybean oil, canola into canola oil, canola meal, or canola byproducts,
17 or sunflower seeds into sunflower oil; as to such persons the amount of
18 tax with respect to such business shall be equal to the value of the

1 flour, pearl barley, oil, canola meal, or canola byproduct
2 manufactured, multiplied by the rate of 0.138 percent;

3 (b) Beginning July 1, 2012, seafood products that remain in a raw,
4 raw frozen, or raw salted state at the completion of the manufacturing
5 by that person; or selling manufactured seafood products that remain in
6 a raw, raw frozen, or raw salted state at the completion of the
7 manufacturing, to purchasers who transport in the ordinary course of
8 business the goods out of this state; as to such persons the amount of
9 tax with respect to such business shall be equal to the value of the
10 products manufactured or the gross proceeds derived from such sales,
11 multiplied by the rate of 0.138 percent. Sellers must keep and
12 preserve records for the period required by RCW 82.32.070 establishing
13 that the goods were transported by the purchaser in the ordinary course
14 of business out of this state;

15 (c) Beginning July 1, 2012, dairy products that as of September 20,
16 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
17 including byproducts from the manufacturing of the dairy products such
18 as whey and casein; or selling the same to purchasers who transport in
19 the ordinary course of business the goods out of state; as to such
20 persons the tax imposed shall be equal to the value of the products
21 manufactured or the gross proceeds derived from such sales multiplied
22 by the rate of 0.138 percent. Sellers must keep and preserve records
23 for the period required by RCW 82.32.070 establishing that the goods
24 were transported by the purchaser in the ordinary course of business
25 out of this state;

26 (d) Beginning July 1, 2012, fruits or vegetables by canning,
27 preserving, freezing, processing, or dehydrating fresh fruits or
28 vegetables, or selling at wholesale fruits or vegetables manufactured
29 by the seller by canning, preserving, freezing, processing, or
30 dehydrating fresh fruits or vegetables and sold to purchasers who
31 transport in the ordinary course of business the goods out of this
32 state; as to such persons the amount of tax with respect to such
33 business shall be equal to the value of the products manufactured or
34 the gross proceeds derived from such sales multiplied by the rate of
35 0.138 percent. Sellers must keep and preserve records for the period
36 required by RCW 82.32.070 establishing that the goods were transported
37 by the purchaser in the ordinary course of business out of this state;

1 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
2 feedstock, as those terms are defined in RCW 82.29A.135; as to such
3 persons the amount of tax with respect to the business shall be equal
4 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
5 manufactured, multiplied by the rate of 0.138 percent; and

6 (f) Alcohol fuel or wood biomass fuel, as those terms are defined
7 in RCW 82.29A.135; as to such persons the amount of tax with respect to
8 the business shall be equal to the value of alcohol fuel or wood
9 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

10 (2) Upon every person engaging within this state in the business of
11 splitting or processing dried peas; as to such persons the amount of
12 tax with respect to such business shall be equal to the value of the
13 peas split or processed, multiplied by the rate of 0.138 percent.

14 (3) Upon every nonprofit corporation and nonprofit association
15 engaging within this state in research and development, as to such
16 corporations and associations, the amount of tax with respect to such
17 activities shall be equal to the gross income derived from such
18 activities multiplied by the rate of 0.484 percent.

19 (4) Upon every person engaging within this state in the business of
20 slaughtering, breaking and/or processing perishable meat products
21 and/or selling the same at wholesale only and not at retail; as to such
22 persons the tax imposed shall be equal to the gross proceeds derived
23 from such sales multiplied by the rate of 0.138 percent.

24 (5) Upon every person engaging within this state in the business of
25 acting as a travel agent or tour operator; as to such persons the
26 amount of the tax with respect to such activities shall be equal to the
27 gross income derived from such activities multiplied by the rate of
28 0.275 percent.

29 (6) Upon every person engaging within this state in business as an
30 international steamship agent, international customs house broker,
31 international freight forwarder, vessel and/or cargo charter broker in
32 foreign commerce, and/or international air cargo agent; as to such
33 persons the amount of the tax with respect to only international
34 activities shall be equal to the gross income derived from such
35 activities multiplied by the rate of 0.275 percent.

36 (7) Upon every person engaging within this state in the business of
37 stevedoring and associated activities pertinent to the movement of
38 goods and commodities in waterborne interstate or foreign commerce; as

1 to such persons the amount of tax with respect to such business shall
2 be equal to the gross proceeds derived from such activities multiplied
3 by the rate of 0.275 percent. Persons subject to taxation under this
4 subsection shall be exempt from payment of taxes imposed by chapter
5 82.16 RCW for that portion of their business subject to taxation under
6 this subsection. Stevedoring and associated activities pertinent to
7 the conduct of goods and commodities in waterborne interstate or
8 foreign commerce are defined as all activities of a labor, service or
9 transportation nature whereby cargo may be loaded or unloaded to or
10 from vessels or barges, passing over, onto or under a wharf, pier, or
11 similar structure; cargo may be moved to a warehouse or similar holding
12 or storage yard or area to await further movement in import or export
13 or may move to a consolidation freight station and be stuffed,
14 unstuffed, containerized, separated or otherwise segregated or
15 aggregated for delivery or loaded on any mode of transportation for
16 delivery to its consignee. Specific activities included in this
17 definition are: Wharfage, handling, loading, unloading, moving of
18 cargo to a convenient place of delivery to the consignee or a
19 convenient place for further movement to export mode; documentation
20 services in connection with the receipt, delivery, checking, care,
21 custody and control of cargo required in the transfer of cargo;
22 imported automobile handling prior to delivery to consignee; terminal
23 stevedoring and incidental vessel services, including but not limited
24 to plugging and unplugging refrigerator service to containers,
25 trailers, and other refrigerated cargo receptacles, and securing ship
26 hatch covers.

27 (8) Upon every person engaging within this state in the business of
28 disposing of low-level waste, as defined in RCW 43.145.010; as to such
29 persons the amount of the tax with respect to such business shall be
30 equal to the gross income of the business, excluding any fees imposed
31 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

32 If the gross income of the taxpayer is attributable to activities
33 both within and without this state, the gross income attributable to
34 this state shall be determined in accordance with the methods of
35 apportionment required under RCW 82.04.460.

36 (9) Upon every person engaging within this state as an insurance
37 producer or title insurance agent licensed under chapter 48.17 RCW; as

1 to such persons, the amount of the tax with respect to such licensed
2 activities shall be equal to the gross income of such business
3 multiplied by the rate of 0.484 percent.

4 (10) Upon every person engaging within this state in business as a
5 hospital, as defined in chapter 70.41 RCW, that is operated as a
6 nonprofit corporation or by the state or any of its political
7 subdivisions, as to such persons, the amount of tax with respect to
8 such activities shall be equal to the gross income of the business
9 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
10 percent thereafter. The moneys collected under this subsection shall
11 be deposited in the health services account created under RCW
12 43.72.900.

13 (11)(a) Beginning October 1, 2005, upon every person engaging
14 within this state in the business of manufacturing commercial
15 airplanes, or components of such airplanes, or making sales, at retail
16 or wholesale, of commercial airplanes or components of such airplanes,
17 manufactured by the seller, as to such persons the amount of tax with
18 respect to such business shall, in the case of manufacturers, be equal
19 to the value of the product manufactured and the gross proceeds of
20 sales of the product manufactured, or in the case of processors for
21 hire, be equal to the gross income of the business, multiplied by the
22 rate of:

23 (i) 0.4235 percent from October 1, 2005, through the later of June
24 30, 2007; and

25 (ii) 0.2904 percent beginning July 1, 2007.

26 (b) Beginning July 1, 2008, upon every person who is not eligible
27 to report under the provisions of (a) of this subsection (11) and is
28 engaging within this state in the business of manufacturing tooling
29 specifically designed for use in manufacturing commercial airplanes or
30 components of such airplanes, or making sales, at retail or wholesale,
31 of such tooling manufactured by the seller, as to such persons the
32 amount of tax with respect to such business shall, in the case of
33 manufacturers, be equal to the value of the product manufactured and
34 the gross proceeds of sales of the product manufactured, or in the case
35 of processors for hire, be equal to the gross income of the business,
36 multiplied by the rate of 0.2904 percent.

37 (c) For the purposes of this subsection (11), "commercial airplane"
38 and "component" have the same meanings as provided in RCW 82.32.550.

1 (d) In addition to all other requirements under this title, a
2 person eligible for the tax rate under this subsection (11) must report
3 as required under RCW 82.32.545.

4 (e) This subsection (11) does not apply on and after July 1, 2024.

5 (12)(a) Until July 1, 2024, upon every person engaging within this
6 state in the business of extracting timber or extracting for hire
7 timber; as to such persons the amount of tax with respect to the
8 business shall, in the case of extractors, be equal to the value of
9 products, including byproducts, extracted, or in the case of extractors
10 for hire, be equal to the gross income of the business, multiplied by
11 the rate of 0.4235 percent from July 1, 2006, through June 30, 2007,
12 and 0.2904 percent from July 1, 2007, through June 30, 2024.

13 (b) Until July 1, 2024, upon every person engaging within this
14 state in the business of manufacturing or processing for hire: (i)
15 Timber into timber products or wood products; or (ii) timber products
16 into other timber products or wood products; as to such persons the
17 amount of the tax with respect to the business shall, in the case of
18 manufacturers, be equal to the value of products, including byproducts,
19 manufactured, or in the case of processors for hire, be equal to the
20 gross income of the business, multiplied by the rate of 0.4235 percent
21 from July 1, 2006, through June 30, 2007, and 0.2904 percent from July
22 1, 2007, through June 30, 2024.

23 (c) Until July 1, 2024, upon every person engaging within this
24 state in the business of selling at wholesale: (i) Timber extracted by
25 that person; (ii) timber products manufactured by that person from
26 timber or other timber products; or (iii) wood products manufactured by
27 that person from timber or timber products; as to such persons the
28 amount of the tax with respect to the business shall be equal to the
29 gross proceeds of sales of the timber, timber products, or wood
30 products multiplied by the rate of 0.4235 percent from July 1, 2006,
31 through June 30, 2007, and 0.2904 percent from July 1, 2007, through
32 June 30, 2024.

33 (d) Until July 1, 2024, upon every person engaging within this
34 state in the business of selling standing timber; as to such persons
35 the amount of the tax with respect to the business shall be equal to
36 the gross income of the business multiplied by the rate of 0.2904
37 percent. For purposes of this subsection (12)(d), "selling standing
38 timber" means the sale of timber apart from the land, where the buyer

1 is required to sever the timber within thirty months from the date of
2 the original contract, regardless of the method of payment for the
3 timber and whether title to the timber transfers before, upon, or after
4 severance.

5 (e) For purposes of this subsection, the following definitions
6 apply:

7 (i) "Biocomposite surface products" means surface material products
8 containing, by weight or volume, more than fifty percent recycled paper
9 and that also use nonpetroleum-based phenolic resin as a bonding agent.

10 (ii) "Paper and paper products" means products made of interwoven
11 cellulosic fibers held together largely by hydrogen bonding. "Paper
12 and paper products" includes newsprint; office, printing, fine, and
13 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
14 kraft bag, construction, and other kraft industrial papers; paperboard,
15 liquid packaging containers, containerboard, corrugated, and solid-
16 fiber containers including linerboard and corrugated medium; and
17 related types of cellulosic products containing primarily, by weight or
18 volume, cellulosic materials. "Paper and paper products" does not
19 include books, newspapers, magazines, periodicals, and other printed
20 publications, advertising materials, calendars, and similar types of
21 printed materials.

22 (iii) "Recycled paper" means paper and paper products having fifty
23 percent or more of their fiber content that comes from postconsumer
24 waste. For purposes of this subsection (12)(e)(iii), "postconsumer
25 waste" means a finished material that would normally be disposed of as
26 solid waste, having completed its life cycle as a consumer item.

27 (iv) "Timber" means forest trees, standing or down, on privately or
28 publicly owned land. "Timber" does not include Christmas trees that
29 are cultivated by agricultural methods or short-rotation hardwoods as
30 defined in RCW 84.33.035.

31 (v) "Timber products" means:

32 (A) Logs, wood chips, sawdust, wood waste, and similar products
33 obtained wholly from the processing of timber, short-rotation hardwoods
34 as defined in RCW 84.33.035, or both;

35 (B) Pulp, including market pulp and pulp derived from recovered
36 paper or paper products; and

37 (C) Recycled paper, but only when used in the manufacture of
38 biocomposite surface products.

1 (vi) "Wood products" means paper and paper products; dimensional
2 lumber; engineered wood products such as particleboard, oriented strand
3 board, medium density fiberboard, and plywood; wood doors; wood
4 windows; and biocomposite surface products.

5 (13) Upon every person engaging within this state in inspecting,
6 testing, labeling, and storing canned salmon owned by another person,
7 as to such persons, the amount of tax with respect to such activities
8 shall be equal to the gross income derived from such activities
9 multiplied by the rate of 0.484 percent.

10 (14) Upon every person engaging within this state in the business
11 of printing, and of publishing newspapers, periodicals, or magazines,
12 the amount of tax on such business is equal to the gross income of the
13 business multiplied by the rate of 0.2904 percent.

14 **Sec. 2.** RCW 82.04.280 and 2006 c 300 s 6 are each amended to read
15 as follows:

16 (1) Upon every person engaging within this state in the business
17 of: ~~((1) Printing, and of publishing newspapers, periodicals, or~~
18 ~~magazines; (2))~~ (a) Building, repairing or improving any street,
19 place, road, highway, easement, right-of-way, mass public
20 transportation terminal or parking facility, bridge, tunnel, or trestle
21 which is owned by a municipal corporation or political subdivision of
22 the state or by the United States and which is used or to be used,
23 primarily for foot or vehicular traffic including mass transportation
24 vehicles of any kind and including any readjustment, reconstruction or
25 relocation of the facilities of any public, private or cooperatively
26 owned utility or railroad in the course of such building, repairing or
27 improving, the cost of which readjustment, reconstruction, or
28 relocation, is the responsibility of the public authority whose street,
29 place, road, highway, easement, right-of-way, mass public
30 transportation terminal or parking facility, bridge, tunnel, or trestle
31 is being built, repaired or improved; ~~((3))~~ (b) extracting for hire
32 or processing for hire, except persons taxable as extractors for hire
33 or processors for hire under another section of this chapter; ~~((4))~~
34 (c) operating a cold storage warehouse or storage warehouse, but not
35 including the rental of cold storage lockers; ~~((5))~~ (d) representing
36 and performing services for fire or casualty insurance companies as an
37 independent resident managing general agent licensed under the

1 provisions of RCW 48.05.310; (~~(6)~~) (e) radio and television
2 broadcasting, excluding network, national and regional advertising
3 computed as a standard deduction based on the national average thereof
4 as annually reported by the Federal Communications Commission, or in
5 lieu thereof by itemization by the individual broadcasting station, and
6 excluding that portion of revenue represented by the out-of-state
7 audience computed as a ratio to the station's total audience as
8 measured by the 100 micro-volt signal strength and delivery by wire, if
9 any; (~~(7)~~) (f) engaging in activities which bring a person within the
10 definition of consumer contained in RCW 82.04.190(6); as to such
11 persons, the amount of tax on such business (~~shall be~~) is equal to
12 the gross income of the business multiplied by the rate of 0.484
13 percent.

14 (2) As used in this section(~~(7)~~):

15 (a) "Cold storage warehouse" means a storage warehouse used to
16 store fresh and/or frozen perishable fruits or vegetables, meat,
17 seafood, dairy products, or fowl, or any combination thereof, at a
18 desired temperature to maintain the quality of the product for orderly
19 marketing.

20 (~~As used in this section,~~) (b) "Storage warehouse" means a
21 building or structure, or any part thereof, in which goods, wares, or
22 merchandise are received for storage for compensation, except field
23 warehouses, fruit warehouses, fruit packing plants, warehouses licensed
24 under chapter 22.09 RCW, public garages storing automobiles, railroad
25 freight sheds, docks and wharves, and "self-storage" or "mini storage"
26 facilities whereby customers have direct access to individual storage
27 areas by separate entrance. "Storage warehouse" does not include a
28 building or structure, or that part of such building or structure, in
29 which an activity taxable under RCW 82.04.272 is conducted.

30 (~~As used in this section,~~) (c) "Periodical or magazine" means a
31 printed publication, other than a newspaper, issued regularly at stated
32 intervals at least once every three months, including any supplement or
33 special edition of the publication.

34 **Sec. 3.** RCW 82.04.280 and 2006 c 300 s 7 are each amended to read
35 as follows:

36 (1) Upon every person engaging within this state in the business
37 of: (~~(1) Printing, and of publishing newspapers, periodicals, or~~

1 ~~magazines; (2))~~ (a) Building, repairing or improving any street,
2 place, road, highway, easement, right-of-way, mass public
3 transportation terminal or parking facility, bridge, tunnel, or trestle
4 which is owned by a municipal corporation or political subdivision of
5 the state or by the United States and which is used or to be used,
6 primarily for foot or vehicular traffic including mass transportation
7 vehicles of any kind and including any readjustment, reconstruction or
8 relocation of the facilities of any public, private or cooperatively
9 owned utility or railroad in the course of such building, repairing or
10 improving, the cost of which readjustment, reconstruction, or
11 relocation, is the responsibility of the public authority whose street,
12 place, road, highway, easement, right-of-way, mass public
13 transportation terminal or parking facility, bridge, tunnel, or trestle
14 is being built, repaired or improved; ~~((3))~~ (b) extracting for hire
15 or processing for hire, except persons taxable as extractors for hire
16 or processors for hire under another section of this chapter; ~~((4))~~
17 (c) operating a cold storage warehouse or storage warehouse, but not
18 including the rental of cold storage lockers; ~~((5))~~ (d) representing
19 and performing services for fire or casualty insurance companies as an
20 independent resident managing general agent licensed under the
21 provisions of RCW 48.05.310; ~~((6))~~ (e) radio and television
22 broadcasting, excluding network, national and regional advertising
23 computed as a standard deduction based on the national average thereof
24 as annually reported by the Federal Communications Commission, or in
25 lieu thereof by itemization by the individual broadcasting station, and
26 excluding that portion of revenue represented by the out-of-state
27 audience computed as a ratio to the station's total audience as
28 measured by the 100 micro-volt signal strength and delivery by wire, if
29 any; ~~((7))~~ (f) engaging in activities which bring a person within the
30 definition of consumer contained in RCW 82.04.190(6); as to such
31 persons, the amount of tax on such business ~~((shall be))~~ is equal to
32 the gross income of the business multiplied by the rate of 0.484
33 percent.

34 (2) As used in this section ~~((7))~~:

35 (a) "Cold storage warehouse" means a storage warehouse used to
36 store fresh and/or frozen perishable fruits or vegetables, meat,
37 seafood, dairy products, or fowl, or any combination thereof, at a

1 desired temperature to maintain the quality of the product for orderly
2 marketing.

3 ~~((As used in this section,))~~ (b) "Storage warehouse" means a
4 building or structure, or any part thereof, in which goods, wares, or
5 merchandise are received for storage for compensation, except field
6 warehouses, fruit warehouses, fruit packing plants, warehouses licensed
7 under chapter 22.09 RCW, public garages storing automobiles, railroad
8 freight sheds, docks and wharves, and "self-storage" or "mini storage"
9 facilities whereby customers have direct access to individual storage
10 areas by separate entrance. "Storage warehouse" does not include a
11 building or structure, or that part of such building or structure, in
12 which an activity taxable under RCW 82.04.272 is conducted.

13 ~~((As used in this section,))~~ (c) "Periodical or magazine" means a
14 printed publication, other than a newspaper, issued regularly at stated
15 intervals at least once every three months, including any supplement or
16 special edition of the publication.

17 **Sec. 4.** RCW 35.102.150 and 2006 c 272 s 1 are each amended to read
18 as follows:

19 Notwithstanding RCW 35.102.130, a city that imposes a business and
20 occupation tax (~~shall~~) must allocate a person's gross income from the
21 activities of printing, and of publishing newspapers, periodicals, or
22 magazines, to the principal place in this state from which the
23 taxpayer's business is directed or managed. As used in this section,
24 the activities of printing, and of publishing newspapers, periodicals,
25 or magazines (~~, have the same meanings as attributed to those terms in~~
26 ~~RCW 82.04.280(1) by the department of revenue~~) are those activities to
27 which the applicable tax rate in RCW 82.04.260(14) applies.

28 **Sec. 5.** RCW 82.04.050 and 2007 c 54 s 4 and 2007 c 6 s 1004 are
29 each reenacted and amended to read as follows:

30 (1) "Sale at retail" or "retail sale" means every sale of tangible
31 personal property (including articles produced, fabricated, or
32 imprinted) to all persons irrespective of the nature of their business
33 and including, among others, without limiting the scope hereof, persons
34 who install, repair, clean, alter, improve, construct, or decorate real
35 or personal property of or for consumers other than a sale to a person
36 who presents a resale certificate under RCW 82.04.470 and who:

1 (a) Purchases for the purpose of resale as tangible personal
2 property in the regular course of business without intervening use by
3 such person, but a purchase for the purpose of resale by a regional
4 transit authority under RCW 81.112.300 is not a sale for resale; or

5 (b) Installs, repairs, cleans, alters, imprints, improves,
6 constructs, or decorates real or personal property of or for consumers,
7 if such tangible personal property becomes an ingredient or component
8 of such real or personal property without intervening use by such
9 person; or

10 (c) Purchases for the purpose of consuming the property purchased
11 in producing for sale a new article of tangible personal property or
12 substance, of which such property becomes an ingredient or component or
13 is a chemical used in processing, when the primary purpose of such
14 chemical is to create a chemical reaction directly through contact with
15 an ingredient of a new article being produced for sale; or

16 (d) Purchases for the purpose of consuming the property purchased
17 in producing ferrosilicon which is subsequently used in producing
18 magnesium for sale, if the primary purpose of such property is to
19 create a chemical reaction directly through contact with an ingredient
20 of ferrosilicon; or

21 (e) Purchases for the purpose of providing the property to
22 consumers as part of competitive telephone service, as defined in RCW
23 82.04.065. The term shall include every sale of tangible personal
24 property which is used or consumed or to be used or consumed in the
25 performance of any activity classified as a "sale at retail" or "retail
26 sale" even though such property is resold or utilized as provided in
27 (a), (b), (c), (d), or (e) of this subsection following such use. The
28 term also means every sale of tangible personal property to persons
29 engaged in any business which is taxable under RCW 82.04.280 (~~(+2)~~)
30 (1)(a) and (~~(+7)~~) (f), 82.04.290, and 82.04.2908; or

31 (f) Purchases for the purpose of satisfying the person's
32 obligations under an extended warranty as defined in subsection (7) of
33 this section, if such tangible personal property replaces or becomes an
34 ingredient or component of property covered by the extended warranty
35 without intervening use by such person.

36 (2) The term "sale at retail" or "retail sale" shall include the
37 sale of or charge made for tangible personal property consumed and/or
38 for labor and services rendered in respect to the following:

1 (a) The installing, repairing, cleaning, altering, imprinting, or
2 improving of tangible personal property of or for consumers, including
3 charges made for the mere use of facilities in respect thereto, but
4 excluding charges made for the use of self-service laundry facilities,
5 and also excluding sales of laundry service to nonprofit health care
6 facilities, and excluding services rendered in respect to live animals,
7 birds and insects;

8 (b) The constructing, repairing, decorating, or improving of new or
9 existing buildings or other structures under, upon, or above real
10 property of or for consumers, including the installing or attaching of
11 any article of tangible personal property therein or thereto, whether
12 or not such personal property becomes a part of the realty by virtue of
13 installation, and shall also include the sale of services or charges
14 made for the clearing of land and the moving of earth excepting the
15 mere leveling of land used in commercial farming or agriculture;

16 (c) The constructing, repairing, or improving of any structure
17 upon, above, or under any real property owned by an owner who conveys
18 the property by title, possession, or any other means to the person
19 performing such construction, repair, or improvement for the purpose of
20 performing such construction, repair, or improvement and the property
21 is then reconveyed by title, possession, or any other means to the
22 original owner;

23 (d) The cleaning, fumigating, razing, or moving of existing
24 buildings or structures, but shall not include the charge made for
25 janitorial services; and for purposes of this section the term
26 "janitorial services" shall mean those cleaning and caretaking services
27 ordinarily performed by commercial janitor service businesses
28 including, but not limited to, wall and window washing, floor cleaning
29 and waxing, and the cleaning in place of rugs, drapes and upholstery.
30 The term "janitorial services" does not include painting, papering,
31 repairing, furnace or septic tank cleaning, snow removal or
32 sandblasting;

33 (e) Automobile towing and similar automotive transportation
34 services, but not in respect to those required to report and pay taxes
35 under chapter 82.16 RCW;

36 (f) The furnishing of lodging and all other services by a hotel,
37 rooming house, tourist court, motel, trailer camp, and the granting of
38 any similar license to use real property, as distinguished from the

1 renting or leasing of real property, and it shall be presumed that the
2 occupancy of real property for a continuous period of one month or more
3 constitutes a rental or lease of real property and not a mere license
4 to use or enjoy the same. For the purposes of this subsection, it
5 shall be presumed that the sale of and charge made for the furnishing
6 of lodging for a continuous period of one month or more to a person is
7 a rental or lease of real property and not a mere license to enjoy the
8 same;

9 (g) Persons taxable under (a), (b), (c), (d), (e), and (f) of this
10 subsection when such sales or charges are for property, labor and
11 services which are used or consumed in whole or in part by such persons
12 in the performance of any activity defined as a "sale at retail" or
13 "retail sale" even though such property, labor and services may be
14 resold after such use or consumption. Nothing contained in this
15 subsection shall be construed to modify subsection (1) of this section
16 and nothing contained in subsection (1) of this section shall be
17 construed to modify this subsection.

18 (3) The term "sale at retail" or "retail sale" shall include the
19 sale of or charge made for personal, business, or professional services
20 including amounts designated as interest, rents, fees, admission, and
21 other service emoluments however designated, received by persons
22 engaging in the following business activities:

23 (a) Amusement and recreation services including but not limited to
24 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
25 for sightseeing purposes, and others, when provided to consumers;

26 (b) Abstract, title insurance, and escrow services;

27 (c) Credit bureau services;

28 (d) Automobile parking and storage garage services;

29 (e) Landscape maintenance and horticultural services but excluding
30 (i) horticultural services provided to farmers and (ii) pruning,
31 trimming, repairing, removing, and clearing of trees and brush near
32 electric transmission or distribution lines or equipment, if performed
33 by or at the direction of an electric utility;

34 (f) Service charges associated with tickets to professional
35 sporting events; and

36 (g) The following personal services: Physical fitness services,
37 tanning salon services, tattoo parlor services, steam bath services,
38 turkish bath services, escort services, and dating services.

1 (4)(a) The term shall also include:

2 (i) The renting or leasing of tangible personal property to
3 consumers; and

4 (ii) Providing tangible personal property along with an operator
5 for a fixed or indeterminate period of time. A consideration of this
6 is that the operator is necessary for the tangible personal property to
7 perform as designed. For the purpose of this subsection (4)(a)(ii), an
8 operator must do more than maintain, inspect, or set up the tangible
9 personal property.

10 (b) The term shall not include the renting or leasing of tangible
11 personal property where the lease or rental is for the purpose of
12 sublease or subrent.

13 (5) The term shall also include the providing of "competitive
14 telephone service," "telecommunications service," or "ancillary
15 services," as those terms are defined in RCW 82.04.065, to consumers.

16 (6) The term shall also include the sale of prewritten computer
17 software other than a sale to a person who presents a resale
18 certificate under RCW 82.04.470, regardless of the method of delivery
19 to the end user, but shall not include custom software or the
20 customization of prewritten computer software.

21 (7) The term shall also include the sale of or charge made for an
22 extended warranty to a consumer. For purposes of this subsection,
23 "extended warranty" means an agreement for a specified duration to
24 perform the replacement or repair of tangible personal property at no
25 additional charge or a reduced charge for tangible personal property,
26 labor, or both, or to provide indemnification for the replacement or
27 repair of tangible personal property, based on the occurrence of
28 specified events. The term "extended warranty" does not include an
29 agreement, otherwise meeting the definition of extended warranty in
30 this subsection, if no separate charge is made for the agreement and
31 the value of the agreement is included in the sales price of the
32 tangible personal property covered by the agreement. For purposes of
33 this subsection, "sales price" has the same meaning as in RCW
34 82.08.010.

35 (8) The term shall not include the sale of or charge made for labor
36 and services rendered in respect to the building, repairing, or
37 improving of any street, place, road, highway, easement, right-of-way,
38 mass public transportation terminal or parking facility, bridge,

1 tunnel, or trestle which is owned by a municipal corporation or
2 political subdivision of the state or by the United States and which is
3 used or to be used primarily for foot or vehicular traffic including
4 mass transportation vehicles of any kind.

5 (9) The term shall also not include sales of chemical sprays or
6 washes to persons for the purpose of postharvest treatment of fruit for
7 the prevention of scald, fungus, mold, or decay, nor shall it include
8 sales of feed, seed, seedlings, fertilizer, agents for enhanced
9 pollination including insects such as bees, and spray materials to:

10 (a) Persons who participate in the federal conservation reserve
11 program, the environmental quality incentives program, the wetlands
12 reserve program, and the wildlife habitat incentives program, or their
13 successors administered by the United States department of agriculture;

14 (b) farmers for the purpose of producing for sale any agricultural
15 product; and (c) farmers acting under cooperative habitat development
16 or access contracts with an organization exempt from federal income tax
17 under Title 26 U.S.C. Sec. 501(c)(3) of the internal revenue code or
18 the Washington state department of fish and wildlife to produce or
19 improve wildlife habitat on land that the farmer owns or leases.

20 (10) The term shall not include the sale of or charge made for
21 labor and services rendered in respect to the constructing, repairing,
22 decorating, or improving of new or existing buildings or other
23 structures under, upon, or above real property of or for the United
24 States, any instrumentality thereof, or a county or city housing
25 authority created pursuant to chapter 35.82 RCW, including the
26 installing, or attaching of any article of tangible personal property
27 therein or thereto, whether or not such personal property becomes a
28 part of the realty by virtue of installation. Nor shall the term
29 include the sale of services or charges made for the clearing of land
30 and the moving of earth of or for the United States, any
31 instrumentality thereof, or a county or city housing authority. Nor
32 shall the term include the sale of services or charges made for
33 cleaning up for the United States, or its instrumentalities,
34 radioactive waste and other byproducts of weapons production and
35 nuclear research and development.

36 (11) The term shall not include the sale of or charge made for
37 labor, services, or tangible personal property pursuant to agreements
38 providing maintenance services for bus, rail, or rail fixed guideway

1 equipment when a regional transit authority is the recipient of the
2 labor, services, or tangible personal property, and a transit agency,
3 as defined in RCW 81.104.015, performs the labor or services.

4 **Sec. 6.** RCW 82.08.806 and 2004 c 8 s 2 are each amended to read as
5 follows:

6 (1) The tax levied by RCW 82.08.020 (~~shall~~) does not apply to
7 sales, to a printer or publisher, of computer equipment, including
8 repair parts and replacement parts for such equipment, when the
9 computer equipment is used primarily in the printing or publishing of
10 any printed material, or to sales of or charges made for labor and
11 services rendered in respect to installing, repairing, cleaning,
12 altering, or improving the computer equipment. This exemption applies
13 only to computer equipment not otherwise exempt under RCW 82.08.02565.

14 (2) A person taking the exemption under this section must keep
15 records necessary for the department to verify eligibility under this
16 section. This exemption is available only when the purchaser provides
17 the seller with an exemption certificate in a form and manner
18 prescribed by the department. The seller shall retain a copy of the
19 certificate for the seller's files.

20 (3) The definitions in this subsection (3) apply throughout this
21 section, unless the context clearly requires otherwise.

22 (a) "Computer" has the same meaning as in RCW 82.04.215.

23 (b) "Computer equipment" means a computer and the associated
24 physical components that constitute a computer system, including
25 monitors, keyboards, printers, modems, scanners, pointing devices, and
26 other computer peripheral equipment, cables, servers, and routers.
27 "Computer equipment" also includes digital cameras and computer
28 software.

29 (c) "Computer software" has the same meaning as in RCW 82.04.215.

30 (d) "Primarily" means greater than fifty percent as measured by
31 time.

32 (e) "Printer or publisher" means a person, as defined in RCW
33 82.04.030, who is subject to tax under RCW (~~82.04.280(1)~~)
34 82.04.260(14).

35 (4) "Computer equipment" does not include computer equipment that
36 is used primarily for administrative purposes including but not limited
37 to payroll processing, accounting, customer service, telemarketing, and

1 collection. If computer equipment is used simultaneously for
2 administrative and nonadministrative purposes, the administrative use
3 shall be disregarded during the period of simultaneous use for purposes
4 of determining whether the computer equipment is used primarily for
5 administrative purposes.

6 **Sec. 7.** RCW 82.08.820 and 2006 c 354 s 11 are each amended to read
7 as follows:

8 (1) Wholesalers or third-party warehouseers who own or operate
9 warehouses or grain elevators and retailers who own or operate
10 distribution centers, and who have paid the tax levied by RCW 82.08.020
11 on:

12 (a) Material-handling and racking equipment, and labor and services
13 rendered in respect to installing, repairing, cleaning, altering, or
14 improving the equipment; or

15 (b) Construction of a warehouse or grain elevator, including
16 materials, and including service and labor costs,
17 are eligible for an exemption in the form of a remittance. The amount
18 of the remittance is computed under subsection (3) of this section and
19 is based on the state share of sales tax.

20 (2) For purposes of this section and RCW 82.12.820:

21 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

22 (b) "Cold storage warehouse" has the meaning provided in RCW
23 82.74.010;

24 (c) "Construction" means the actual construction of a warehouse or
25 grain elevator that did not exist before the construction began.
26 "Construction" includes expansion if the expansion adds at least
27 twenty-five thousand square feet of additional space to an existing
28 cold storage warehouse, at least two hundred thousand square feet of
29 additional space to an existing warehouse other than a cold storage
30 warehouse, or additional storage capacity of at least one million
31 bushels to an existing grain elevator. "Construction" does not include
32 renovation, remodeling, or repair;

33 (d) "Department" means the department of revenue;

34 (e) "Distribution center" means a warehouse that is used
35 exclusively by a retailer solely for the storage and distribution of
36 finished goods to retail outlets of the retailer. "Distribution
37 center" does not include a warehouse at which retail sales occur;

1 (f) "Finished goods" means tangible personal property intended for
2 sale by a retailer or wholesaler. "Finished goods" does not include
3 agricultural products stored by wholesalers, third-party warehouses, or
4 retailers if the storage takes place on the land of the person who
5 produced the agricultural product. "Finished goods" does not include
6 logs, minerals, petroleum, gas, or other extracted products stored as
7 raw materials or in bulk;

8 (g) "Grain elevator" means a structure used for storage and
9 handling of grain in bulk;

10 (h) "Material-handling equipment and racking equipment" means
11 equipment in a warehouse or grain elevator that is primarily used to
12 handle, store, organize, convey, package, or repackage finished goods.
13 The term includes tangible personal property with a useful life of one
14 year or more that becomes an ingredient or component of the equipment,
15 including repair and replacement parts. The term does not include
16 equipment in offices, lunchrooms, restrooms, and other like space,
17 within a warehouse or grain elevator, or equipment used for
18 nonwarehousing purposes. "Material-handling equipment" includes but is
19 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
20 place units, cranes, hoists, mechanical arms, and robots; mechanized
21 systems, including containers that are an integral part of the system,
22 whose purpose is to lift or move tangible personal property; and
23 automated handling, storage, and retrieval systems, including computers
24 that control them, whose purpose is to lift or move tangible personal
25 property; and forklifts and other off-the-road vehicles that are used
26 to lift or move tangible personal property and that cannot be operated
27 legally on roads and streets. "Racking equipment" includes, but is not
28 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
29 pallets, and other containers and storage devices that form a necessary
30 part of the storage system;

31 (i) "Person" has the meaning given in RCW 82.04.030;

32 (j) "Retailer" means a person who makes "sales at retail" as
33 defined in chapter 82.04 RCW of tangible personal property;

34 (k) "Square footage" means the product of the two horizontal
35 dimensions of each floor of a specific warehouse. The entire footprint
36 of the warehouse shall be measured in calculating the square footage,
37 including space that juts out from the building profile such as loading

1 docks. "Square footage" does not mean the aggregate of the square
2 footage of more than one warehouse at a location or the aggregate of
3 the square footage of warehouses at more than one location;

4 (l) "Third-party warehouser" means a person taxable under RCW
5 82.04.280(~~(+4)~~) (1)(c);

6 (m) "Warehouse" means an enclosed building or structure in which
7 finished goods are stored. A warehouse building or structure may have
8 more than one storage room and more than one floor. Office space,
9 lunchrooms, restrooms, and other space within the warehouse and
10 necessary for the operation of the warehouse are considered part of the
11 warehouse as are loading docks and other such space attached to the
12 building and used for handling of finished goods. Landscaping and
13 parking lots are not considered part of the warehouse. A storage yard
14 is not a warehouse, nor is a building in which manufacturing takes
15 place; and

16 (n) "Wholesaler" means a person who makes "sales at wholesale" as
17 defined in chapter 82.04 RCW of tangible personal property, but
18 "wholesaler" does not include a person who makes sales exempt under RCW
19 82.04.330.

20 (3)(a) A person claiming an exemption from state tax in the form of
21 a remittance under this section must pay the tax imposed by RCW
22 82.08.020. The buyer may then apply to the department for remittance
23 of all or part of the tax paid under RCW 82.08.020. For grain
24 elevators with bushel capacity of one million but less than two
25 million, the remittance is equal to fifty percent of the amount of tax
26 paid. For warehouses with square footage of two hundred thousand or
27 more, other than cold storage warehouses, and for grain elevators with
28 bushel capacity of two million or more, the remittance is equal to one
29 hundred percent of the amount of tax paid for qualifying construction,
30 materials, service, and labor, and fifty percent of the amount of tax
31 paid for qualifying material-handling equipment and racking equipment,
32 and labor and services rendered in respect to installing, repairing,
33 cleaning, altering, or improving the equipment. For cold storage
34 warehouses with square footage of twenty-five thousand or more, the
35 remittance is equal to one hundred percent of the amount of tax paid
36 for qualifying construction, materials, service, and labor, and one
37 hundred percent of the amount of tax paid for qualifying material-

1 handling equipment and racking equipment, and labor and services
2 rendered in respect to installing, repairing, cleaning, altering, or
3 improving the equipment.

4 (b) The department shall determine eligibility under this section
5 based on information provided by the buyer and through audit and other
6 administrative records. The buyer shall on a quarterly basis submit an
7 information sheet, in a form and manner as required by the department
8 by rule, specifying the amount of exempted tax claimed and the
9 qualifying purchases or acquisitions for which the exemption is
10 claimed. The buyer shall retain, in adequate detail to enable the
11 department to determine whether the equipment or construction meets the
12 criteria under this section: Invoices; proof of tax paid; documents
13 describing the material-handling equipment and racking equipment;
14 location and size of warehouses and grain elevators; and construction
15 invoices and documents.

16 (c) The department shall on a quarterly basis remit exempted
17 amounts to qualifying persons who submitted applications during the
18 previous quarter.

19 (4) Warehouses, grain elevators, and material-handling equipment
20 and racking equipment for which an exemption, credit, or deferral has
21 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or
22 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
23 under this section. Warehouses and grain elevators upon which
24 construction was initiated before May 20, 1997, are not eligible for a
25 remittance under this section.

26 (5) The lessor or owner of a warehouse or grain elevator is not
27 eligible for a remittance under this section unless the underlying
28 ownership of the warehouse or grain elevator and the material-handling
29 equipment and racking equipment vests exclusively in the same person,
30 or unless the lessor by written contract agrees to pass the economic
31 benefit of the remittance to the lessee in the form of reduced rent
32 payments.

33 **Sec. 8.** RCW 82.08.820 and 2006 c 354 s 12 are each amended to read
34 as follows:

35 (1) Wholesalers or third-party warehousers who own or operate
36 warehouses or grain elevators and retailers who own or operate

1 distribution centers, and who have paid the tax levied by RCW 82.08.020
2 on:

3 (a) Material-handling and racking equipment, and labor and services
4 rendered in respect to installing, repairing, cleaning, altering, or
5 improving the equipment; or

6 (b) Construction of a warehouse or grain elevator, including
7 materials, and including service and labor costs,
8 are eligible for an exemption in the form of a remittance. The amount
9 of the remittance is computed under subsection (3) of this section and
10 is based on the state share of sales tax.

11 (2) For purposes of this section and RCW 82.12.820:

12 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

13 (b) "Construction" means the actual construction of a warehouse or
14 grain elevator that did not exist before the construction began.
15 "Construction" includes expansion if the expansion adds at least two
16 hundred thousand square feet of additional space to an existing
17 warehouse or additional storage capacity of at least one million
18 bushels to an existing grain elevator. "Construction" does not include
19 renovation, remodeling, or repair;

20 (c) "Department" means the department of revenue;

21 (d) "Distribution center" means a warehouse that is used
22 exclusively by a retailer solely for the storage and distribution of
23 finished goods to retail outlets of the retailer. "Distribution
24 center" does not include a warehouse at which retail sales occur;

25 (e) "Finished goods" means tangible personal property intended for
26 sale by a retailer or wholesaler. "Finished goods" does not include
27 agricultural products stored by wholesalers, third-party warehouses, or
28 retailers if the storage takes place on the land of the person who
29 produced the agricultural product. "Finished goods" does not include
30 logs, minerals, petroleum, gas, or other extracted products stored as
31 raw materials or in bulk;

32 (f) "Grain elevator" means a structure used for storage and
33 handling of grain in bulk;

34 (g) "Material-handling equipment and racking equipment" means
35 equipment in a warehouse or grain elevator that is primarily used to
36 handle, store, organize, convey, package, or repackage finished goods.
37 The term includes tangible personal property with a useful life of one
38 year or more that becomes an ingredient or component of the equipment,

1 including repair and replacement parts. The term does not include
2 equipment in offices, lunchrooms, restrooms, and other like space,
3 within a warehouse or grain elevator, or equipment used for
4 nonwarehousing purposes. "Material-handling equipment" includes but is
5 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
6 place units, cranes, hoists, mechanical arms, and robots; mechanized
7 systems, including containers that are an integral part of the system,
8 whose purpose is to lift or move tangible personal property; and
9 automated handling, storage, and retrieval systems, including computers
10 that control them, whose purpose is to lift or move tangible personal
11 property; and forklifts and other off-the-road vehicles that are used
12 to lift or move tangible personal property and that cannot be operated
13 legally on roads and streets. "Racking equipment" includes, but is not
14 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
15 pallets, and other containers and storage devices that form a necessary
16 part of the storage system;

17 (h) "Person" has the meaning given in RCW 82.04.030;

18 (i) "Retailer" means a person who makes "sales at retail" as
19 defined in chapter 82.04 RCW of tangible personal property;

20 (j) "Square footage" means the product of the two horizontal
21 dimensions of each floor of a specific warehouse. The entire footprint
22 of the warehouse shall be measured in calculating the square footage,
23 including space that juts out from the building profile such as loading
24 docks. "Square footage" does not mean the aggregate of the square
25 footage of more than one warehouse at a location or the aggregate of
26 the square footage of warehouses at more than one location;

27 (k) "Third-party warehouse" means a person taxable under RCW
28 82.04.280(~~(+4)~~) (1)(c);

29 (l) "Warehouse" means an enclosed building or structure in which
30 finished goods are stored. A warehouse building or structure may have
31 more than one storage room and more than one floor. Office space,
32 lunchrooms, restrooms, and other space within the warehouse and
33 necessary for the operation of the warehouse are considered part of the
34 warehouse as are loading docks and other such space attached to the
35 building and used for handling of finished goods. Landscaping and
36 parking lots are not considered part of the warehouse. A storage yard
37 is not a warehouse, nor is a building in which manufacturing takes
38 place; and

1 (m) "Wholesaler" means a person who makes "sales at wholesale" as
2 defined in chapter 82.04 RCW of tangible personal property, but
3 "wholesaler" does not include a person who makes sales exempt under RCW
4 82.04.330.

5 (3)(a) A person claiming an exemption from state tax in the form of
6 a remittance under this section must pay the tax imposed by RCW
7 82.08.020. The buyer may then apply to the department for remittance
8 of all or part of the tax paid under RCW 82.08.020. For grain
9 elevators with bushel capacity of one million but less than two
10 million, the remittance is equal to fifty percent of the amount of tax
11 paid. For warehouses with square footage of two hundred thousand or
12 more and for grain elevators with bushel capacity of two million or
13 more, the remittance is equal to one hundred percent of the amount of
14 tax paid for qualifying construction, materials, service, and labor,
15 and fifty percent of the amount of tax paid for qualifying material-
16 handling equipment and racking equipment, and labor and services
17 rendered in respect to installing, repairing, cleaning, altering, or
18 improving the equipment.

19 (b) The department shall determine eligibility under this section
20 based on information provided by the buyer and through audit and other
21 administrative records. The buyer shall on a quarterly basis submit an
22 information sheet, in a form and manner as required by the department
23 by rule, specifying the amount of exempted tax claimed and the
24 qualifying purchases or acquisitions for which the exemption is
25 claimed. The buyer shall retain, in adequate detail to enable the
26 department to determine whether the equipment or construction meets the
27 criteria under this section: Invoices; proof of tax paid; documents
28 describing the material-handling equipment and racking equipment;
29 location and size of warehouses and grain elevators; and construction
30 invoices and documents.

31 (c) The department shall on a quarterly basis remit exempted
32 amounts to qualifying persons who submitted applications during the
33 previous quarter.

34 (4) Warehouses, grain elevators, and material-handling equipment
35 and racking equipment for which an exemption, credit, or deferral has
36 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or
37 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance

1 under this section. Warehouses and grain elevators upon which
2 construction was initiated before May 20, 1997, are not eligible for a
3 remittance under this section.

4 (5) The lessor or owner of a warehouse or grain elevator is not
5 eligible for a remittance under this section unless the underlying
6 ownership of the warehouse or grain elevator and the material-handling
7 equipment and racking equipment vests exclusively in the same person,
8 or unless the lessor by written contract agrees to pass the economic
9 benefit of the remittance to the lessee in the form of reduced rent
10 payments.

11 **Sec. 9.** RCW 82.12.020 and 2005 c 514 s 105 are each amended to
12 read as follows:

13 (1) There is ~~((hereby))~~ levied and ~~((there shall be))~~ collected
14 from every person in this state a tax or excise for the privilege of
15 using within this state as a consumer: (a) Any article of tangible
16 personal property purchased at retail, or acquired by lease, gift,
17 repossession, or bailment, or extracted or produced or manufactured by
18 the person so using the same, or otherwise furnished to a person
19 engaged in any business taxable under RCW 82.04.280 ~~((+2+))~~ (1)(a) or
20 ~~((+7+))~~ (f); (b) any prewritten computer software, regardless of the
21 method of delivery, but excluding prewritten computer software that is
22 either provided free of charge or is provided for temporary use in
23 viewing information, or both; or (c) any extended warranty.

24 (2) This tax shall apply to the use of every extended warranty,
25 service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a), and
26 the use of every article of tangible personal property, including
27 property acquired at a casual or isolated sale, and including
28 byproducts used by the manufacturer thereof, except as hereinafter
29 provided, irrespective of whether the article or similar articles are
30 manufactured or are available for purchase within this state.

31 (3) The provisions of this chapter do not apply in respect to the
32 use of any article of tangible personal property, extended warranty, or
33 service taxable under RCW 82.04.050 (2)(a) or (3)(a), purchased at
34 retail or acquired by lease, gift, or bailment if the sale to, or the
35 use by, the present user or his bailor or donor has already been
36 subjected to the tax under chapter 82.08 RCW or this chapter and the
37 tax has been paid by the present user or by his bailor or donor.

1 (4) Except as provided in this section, payment by one purchaser or
2 user of tangible personal property, extended warranty, or service of
3 the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect
4 of exempting any other purchaser or user of the same property, extended
5 warranty, or service from the taxes imposed by such chapters. If the
6 sale to, or the use by, the present user or his or her bailor or donor
7 has already been subjected to the tax under chapter 82.08 RCW or this
8 chapter and the tax has been paid by the present user or by his or her
9 bailor or donor; or in respect to the use of property acquired by
10 bailment and the tax has once been paid based on reasonable rental as
11 determined by RCW 82.12.060 measured by the value of the article at
12 time of first use multiplied by the tax rate imposed by chapter 82.08
13 RCW or this chapter as of the time of first use; or in respect to the
14 use of any article of tangible personal property acquired by bailment,
15 if the property was acquired by a previous bailee from the same bailor
16 for use in the same general activity and the original bailment was
17 prior to June 9, 1961, the tax imposed by this chapter does not apply.

18 (5) The tax shall be levied and collected in an amount equal to the
19 value of the article used, value of the extended warranty used, or
20 value of the service used by the taxpayer multiplied by the rates in
21 effect for the retail sales tax under RCW 82.08.020, except in the case
22 of a seller required to collect use tax from the purchaser, the tax
23 shall be collected in an amount equal to the purchase price multiplied
24 by the rate in effect for the retail sales tax under RCW 82.08.020.

25 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.32 RCW
26 to read as follows:

27 (1)(a) Every person claiming the preferential rate provided in RCW
28 82.04.260(14) must file a complete annual report with the department.
29 The report is due by March 31st of the year following any calendar year
30 in which a person is eligible to claim the preferential rate provided
31 in RCW 82.04.260(14). The department may extend the due date for
32 timely filing of annual reports under this section as provided in RCW
33 82.32.590.

34 (b) The report must include information detailing employment,
35 wages, and employer-provided health and retirement benefits for
36 employment positions in Washington for the year that the preferential
37 rate was claimed. The report must not include names of employees. The

1 report must also detail employment by the total number of full-time,
2 part-time, and temporary positions for the year that the tax preference
3 was claimed.

4 (c) If a person filing a report under this section did not file a
5 report with the department in the previous calendar year, the report
6 filed under this section must also include employment, wage, and
7 benefit information for the calendar year immediately preceding the
8 calendar year for which the preferential rate provided in RCW
9 82.04.260(14) was claimed.

10 (2) As part of the annual report, the department may request
11 additional information necessary to measure the results of, or
12 determine eligibility for, the preferential rate provided in RCW
13 82.04.260(14).

14 (3) Other than information requested under subsection (2) of this
15 section, the information contained in an annual report filed under this
16 section is not subject to the confidentiality provisions of RCW
17 82.32.330 and may be disclosed to the public upon request.

18 (4) Except as otherwise provided by law, if a person claims the
19 preferential rate provided in RCW 82.04.260(14) but fails to submit a
20 report by the due date or any extension under RCW 82.32.590, the
21 department must declare the amount of the tax preference claimed for
22 the previous calendar year to be immediately due and payable. The
23 department must assess interest, but not penalties, on the amounts due
24 under this subsection. The interest must be assessed at the rate
25 provided for delinquent taxes under this chapter, retroactively to the
26 date the tax preference was claimed, and accrues until the taxes for
27 which the tax preference was claimed are repaid. Amounts due under
28 this subsection are not subject to the confidentiality provisions of
29 RCW 82.32.330 and may be disclosed to the public upon request.

30 (5) By November 1, 2014, and November 1, 2016, the fiscal
31 committees of the house of representatives and the senate, in
32 consultation with the department, must report to the legislature on the
33 effectiveness of the preferential rate provided in RCW 82.04.260(14).
34 The report must measure the effect of the preferential rate provided in
35 RCW 82.04.260(14) on job retention, net jobs created for Washington
36 residents, industry growth, and other factors as the committees select.
37 The report must include a discussion of principles to apply in

1 evaluating whether the legislature should continue the preferential
2 rate provided in RCW 82.04.260(14).

3 **Sec. 11.** RCW 82.32.590 and 2008 c 81 s 13 and 2008 c 15 s 7 are
4 each reenacted and amended to read as follows:

5 (1) If the department finds that the failure of a taxpayer to file
6 an annual survey or annual report under RCW 82.04.4452, 82.32.5351,
7 82.32.650, 82.32.630, 82.32.610, 82.82.020, section 10 of this act, or
8 82.74.040 by the due date was the result of circumstances beyond the
9 control of the taxpayer, the department shall extend the time for
10 filing the survey or report. Such extension shall be for a period of
11 thirty days from the date the department issues its written
12 notification to the taxpayer that it qualifies for an extension under
13 this section. The department may grant additional extensions as it
14 deems proper.

15 (2) In making a determination whether the failure of a taxpayer to
16 file an annual survey or annual report by the due date was the result
17 of circumstances beyond the control of the taxpayer, the department
18 shall be guided by rules adopted by the department for the waiver or
19 cancellation of penalties when the underpayment or untimely payment of
20 any tax was due to circumstances beyond the control of the taxpayer.

21 **Sec. 12.** RCW 82.32.600 and 2008 c 81 s 14 and 2008 c 15 s 8 are
22 each reenacted and amended to read as follows:

23 (1) Persons required to file annual surveys or annual reports under
24 RCW 82.04.4452, 82.32.5351, 82.32.545, 82.32.610, 82.32.630, 82.82.020,
25 section 10 of this act, or 82.74.040 must electronically file with the
26 department all surveys, reports, returns, and any other forms or
27 information the department requires in an electronic format as provided
28 or approved by the department. As used in this section, "returns" has
29 the same meaning as "return" in RCW 82.32.050.

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

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

1 **Sec. 13.** 2006 c 300 s 12 (uncodified) is amended to read as
2 follows:

3 (1)(a) (~~(This act and)~~) Section 3, chapter . . . , Laws of 2009
4 (section 3 of this act), section 7, chapter 300, Laws of 2006, and
5 section 4, chapter 149, Laws of 2003 are contingent upon the siting and
6 commercial operation of a significant semiconductor microchip
7 fabrication facility in the state of Washington.

8 (b) For the purposes of this section:

9 (i) "Commercial operation" means the same as "commencement of
10 commercial production" as used in RCW 82.08.965.

11 (ii) "Semiconductor microchip fabrication" means "manufacturing
12 semiconductor microchips" as defined in RCW 82.04.426.

13 (iii) "Significant" means the combined investment of new buildings
14 and new machinery and equipment in the buildings, at the commencement
15 of commercial production, will be at least one billion dollars.

16 (2) (~~(This act)~~) Chapter 149, Laws of 2003 takes effect the first
17 day of the month in which a contract for the construction of a
18 significant semiconductor fabrication facility is signed, as determined
19 by the director of the department of revenue.

20 (3)(a) The department of revenue (~~(shall)~~) must provide notice of
21 the effective date of this act to affected taxpayers, the legislature,
22 and others as deemed appropriate by the department.

23 (b) If, after making a determination that a contract has been
24 signed and (~~(this act)~~) chapter 149, Laws of 2003 is effective, the
25 department discovers that commencement of commercial production did not
26 take place within three years of the date the contract was signed, the
27 department (~~(shall)~~) must make a determination that (~~(this act)~~)
28 chapter 149, Laws of 2003 is no longer effective, and all taxes that
29 would have been otherwise due (~~(shall be)~~) are deemed deferred taxes
30 and are immediately assessed and payable from any person reporting tax
31 under RCW 82.04.240(2) or claiming an exemption or credit under section
32 2 or 5 through 10 (~~(of this act)~~), chapter 149, Laws of 2003. The
33 department is not authorized to make a second determination regarding
34 the effective date of (~~(this act)~~) chapter 149, Laws of 2003.

35 NEW SECTION. **Sec. 14.** (1) Except as provided in subsections (2)
36 and (3) of this section, this act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 July 1, 2009.

4 (2) Section 8 of this act takes effect July 1, 2012.

5 (3) Section 3 of this act takes effect if the contingency in
6 section 13 of this act occurs.

7 NEW SECTION. **Sec. 15.** (1) Section 7 of this act expires July 1,
8 2012.

9 (2) Section 2 of this act expires on the date that section 3 of
10 this act takes effect.

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