H-4220.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2947**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Chapman, Maycumber, Haler, Schmick, Steele, and Tharinger

AN ACT Relating to providing business and occupation tax relief to rural manufacturers; amending RCW 82.04.240, 82.04.240, 82.04.440, 82.04.433, and 82.32.790; creating a new section; providing an effective date; providing a contingent effective date; providing an expiration date; and providing contingent expiration dates.

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

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement section for sections 3 and 4, chapter . . ., Laws of 2018 (sections 3 and 4 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes the tax preference as one intended to provide relief to manufacturers located in rural counties, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature specific public policy objective to provide business and occupation tax relief to businesses located in rural counties, both within and without the state.

(4) If a review finds that the unemployment rate in rural counties, as defined in RCW 82.14.370, is higher than the unemployment rate of the Seattle-Bremerton-Tacoma combined metropolitan statistical area, as defined by the United States department of labor, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any available data source, and the employment security department is directed to cooperate with any requests for data pursuant to facilitating the review authorized in this section.

**Sec.**  RCW 82.04.240 and 2004 c 24 s 4 are each amended to read as follows:

(1)(a) Upon every eligible manufacturer engaging within this state in the business of manufacturing in an eligible area, and every eligible manufacturer engaging within this state in the business of making sales, at retail or wholesale, of products manufactured by the eligible manufacturer in an eligible area, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.484 percent through December 31, 2019;

(ii) 0.4356 percent from January 1, 2020, through December 31, 2020;

(iii) 0.3872 percent from January 1, 2021, through December 31, 2021;

(iv) 0.3388 percent from January 1, 2022, through December 31, 2022; and

(v) 0.2904 percent from January 1, 2023, and thereafter.

(b) The definitions in this subsection apply throughout this subsection (1) unless the context clearly requires otherwise.

(i) "Eligible area" means a county or a statistically equivalent entity, as defined by the United States census bureau, located within or without the state, that:

(A) Has a population density of less than one hundred persons per square mile; or

(B) Is smaller than two hundred twenty-five square miles.

(ii) "Eligible manufacturer" means a manufacturer or processor for hire, engaged in manufacturing within an eligible area.

(iii) "Manufacturing" means the same as "to manufacture" as defined in RCW 82.04.120.

(2) Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business ((~~shall be~~)) is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of 0.484 percent.

(3) The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

**Sec.**  RCW 82.04.240 and 2017 3rd sp.s. c 37 s 518 are each amended to read as follows:

(1) Upon every eligible manufacturer engaging within this state in the business of manufacturing in an eligible area, and every eligible manufacturer engaging within this state in the business of making sales, at retail or wholesale, of products manufactured by the eligible manufacturer in an eligible area, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.484 percent through December 31, 2019;

(ii) 0.4356 percent from January 1, 2020, through December 31, 2020;

(iii) 0.3872 percent from January 1, 2021, through December 31, 2021;

(iv) 0.3388 percent from January 1, 2022, through December 31, 2022; and

(v) 0.2904 percent from January 1, 2023, and thereafter.

(b) The definitions in this subsection apply throughout this subsection (1) unless the context clearly requires otherwise.

(i) "Eligible area" means a county or a statistically equivalent entity, as defined by the United States census bureau, located within or without the state, that:

(A) Has a population density of less than one hundred persons per square mile; or

(B) Is smaller than two hundred twenty-five square miles.

(ii) "Eligible manufacturer" means a manufacturer or processor for hire, engaged in manufacturing within an eligible area.

(iii) "Manufacturing" means the same as "to manufacture" as defined in RCW 82.04.120.

(2) Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of 0.484 percent.

((~~(2)~~)) (3)(a) Upon every person engaging within this state in the business of manufacturing semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent. For the purposes of this subsection "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(b) A person reporting under the tax rate provided in this subsection ((~~(2)~~)) (3) must file a complete annual tax performance report with the department under RCW 82.32.534.

((~~(3)~~)) (4) The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

((~~(4)~~)) (5) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.440 and 2011 c 2 s 205 are each amended to read as follows:

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), (4), (11), or (12) with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261 and 82.04.240(1), are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the sale of those products.

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

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (4), (11), or (12), including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state are allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

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

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

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

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

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

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

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through ((~~82.04.212 [82.04.217]~~)) 82.04.217, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

**Sec.**  RCW 82.04.433 and 2009 c 494 s 2 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax imposed under RCW 82.04.240, 82.04.250, and 82.04.270 amounts derived from sales of fuel for consumption outside the territorial waters of the United States, by vessels used primarily in foreign commerce.

(2) The deduction in subsection (1) of this section does not apply with respect to the tax imposed under RCW 82.04.240, in the case of manufacturers, on the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, whether the value of the fuel under that tax is measured by the gross proceeds derived from the sale thereof or otherwise under RCW 82.04.450.

**Sec.**  RCW 82.32.790 and 2017 3rd sp.s. c 37 s 526 are each amended to read as follows:

(1)(a) Section 3, chapter . . ., Laws of 2018 (section 3 of this act), sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, 2024.

(b) For the purposes of this section:

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

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

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

(2) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, if the contract is signed and received by January 1, 2024, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not authorized to make a second determination regarding the effective date of the sections referenced in subsection (1) of this section.

(4)(a) This section expires January 1, 2024, if the contingency in subsection (2) of this section does not occur by January 1, 2024, as determined by the department.

(b) The department must provide written notice of the expiration date of this section and the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

NEW SECTION. **Sec.**  Except for section 3 of this act, this act takes effect January 1, 2019.

NEW SECTION. **Sec.**  (1) Except for sections 2 and 3 of this act, this act expires January 1, 2029.

(2) Section 2 of this act expires on the date that is the earlier of:

(a) The date that section 3 of this act takes effect; or

(b) January 1, 2029.

(3) Section 3 of this act expires:

(a) January 1, 2024, if the contingency in section 3(5) of this act occurs; or

(b) January 1, 2029.

**--- END ---**