

SB 5113 - S AMD 279
By Senator Braun

ADOPTED 04/21/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) This section is the tax preference
4 performance statement for the tax preference contained in section 3,
5 chapter . . . , Laws of 2017 (section 3 of this act). This performance
6 statement is only intended to be used for subsequent evaluation of
7 the tax preference. It is not intended to create a private right of
8 action by any party or to be used to determine eligibility for
9 preferential tax treatment.

10 (2) The legislature categorizes this tax preference as one
11 intended to provide tax relief for certain businesses or individuals,
12 as indicated in RCW 82.32.808(2)(e).

13 (3) It is the legislature's specific public policy objective to
14 reduce the tax burden on individuals and businesses imposed by the
15 existing business and occupation tax rates.

16 (4) If the review finds that more than one hundred thousand
17 businesses in the state per year are experiencing tax relief from
18 this tax preference, then the legislature intends to extend the
19 expiration date of this tax preference.

20 (5) In order to obtain the data necessary to perform the review
21 in subsection (4) of this section, the joint legislative audit and
22 review committee may refer to any data collected by the state.

23 NEW SECTION. **Sec. 2.** RCW 82.04.4451 (Credit against tax due—
24 Maximum credit—Table) and 2010 1st sp.s. c 23 s 1102, 1997 c 238 s 2,
25 & 1994 sp.s. c 2 s 1 are each repealed.

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

28 (1) In computing the tax imposed under this chapter, each year a
29 person may deduct from the measure of tax an amount up to:

1 (a) Two hundred fifty thousand dollars if the person meets the
2 eligibility requirements in subsection (6)(a)(i) of this section; or

3 (b) One hundred thousand dollars if the person meets the
4 eligibility requirements in subsection (6)(a)(ii) of this section.

5 (2)(a) A person who is eligible to claim the deduction under this
6 section and who is also entitled to claim a multiple activities tax
7 credit under RCW 82.04.440 may, in lieu of claiming the deduction
8 under this section, elect to claim the deduction in the form of
9 credit as provided in this section. The credit for a calendar year is
10 equal to the lesser of the tax otherwise due under this chapter for
11 that calendar year or an amount determined by:

12 (i) For a person who is eligible for the deduction under
13 subsection (1)(a) of this section, multiplying two hundred fifty
14 thousand dollars by the highest tax rate applicable to any of the
15 activities conducted by the taxpayer that qualify the taxpayer for a
16 multiple activities tax credit under RCW 82.04.440; or

17 (ii) For a person who is eligible for the deduction under
18 subsection (1)(b) of this section, multiplying one hundred thousand
19 dollars by the highest tax rate applicable to any of the activities
20 conducted by the taxpayer that qualify the taxpayer for a multiple
21 activities tax credit under RCW 82.04.440.

22 (b) For purposes of this subsection (2), "tax rate" means the
23 base tax rate applicable to a particular business activity, plus the
24 rate of any additional tax imposed on that business activity under
25 another provision of this chapter.

26 (c) An election under this subsection to claim the deduction in
27 the form of a credit applies for a full calendar year.

28 (3) No tax under this chapter is due when, in the case of the
29 deduction, the measure of tax for a reporting period is equal to or
30 less than the available deduction, or in the case of the credit, the
31 tax otherwise due for a reporting period is equal to or less than the
32 available credit. Any unused portion of the deduction or credit under
33 this section may be carried forward for tax reporting periods in the
34 same calendar year but otherwise may not be carried forward or
35 backward to tax reporting periods in other calendar years. For
36 taxpayers who report taxes due under this chapter to the department
37 more frequently than annually, the deduction and credit under this
38 section must be used in a prior tax reporting period in the current
39 calendar year before it may be carried forward and used in a
40 subsequent tax reporting period in the current calendar year, unless

1 the taxpayer had no tax liability under this chapter in any prior tax
2 reporting period in the current calendar year. No refunds are allowed
3 for the deduction and credit under this section.

4 (4) For taxpayers subject to taxes imposed under multiple
5 provisions of this chapter, the deduction under this section must be
6 applied to the measure of tax in order of the business activities
7 taxed at the highest to lowest rates.

8 (5) The deduction and credit under this section are in addition
9 to any other applicable deductions, exemptions, and credits allowed
10 for the taxes due under this chapter. The deduction and credit in
11 this section must be claimed, in the case of the deduction, after all
12 other deductions are claimed, and in the case of the credit, after
13 all other credits are claimed.

14 (6)(a)(i) A person is eligible for the deduction under subsection
15 (1)(a) of this section or credit under subsection (2)(a)(i) of this
16 section if the person's taxable amount was less than or equal to two
17 hundred fifty thousand dollars for the calendar year immediately
18 preceding the current calendar year.

19 (ii) A person is eligible for the deduction under subsection
20 (1)(b) of this section or credit under subsection (2)(a)(ii) of this
21 section if the person's taxable amount exceeded two hundred fifty
22 thousand dollars, but was less than five hundred thousand dollars,
23 for the calendar year immediately preceding the current calendar
24 year.

25 (b) For purposes of this subsection, if a person is a successor
26 to another person, the successor's taxable amount for the calendar
27 year immediately preceding the successor's first full calendar year
28 of engaging in business within this state, includes the predecessor's
29 taxable amount for the calendar year immediately preceding the
30 successor's first full calendar year of engaging in business within
31 this state.

32 (c) For purposes of this subsection (6), the following
33 definitions apply:

34 (i) "Successor" has the same meaning as in RCW 82.04.180(1).

35 (ii) "Taxable amount" means the taxable amount subject to the tax
36 imposed in this chapter required to be reported on the person's
37 excise tax returns, less any taxable amount for which a multiple
38 activities tax credit is allowed under RCW 82.04.440.

39 (7) This section expires January 1, 2033.

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

3 (1) Beginning July 1, 2017, upon every person engaging within the
4 state in selected business activities, an additional tax is imposed.
5 The amount of the additional tax imposed on a person under this
6 section is equal to the tax payable by the person under all other
7 applicable provisions of this chapter on selected business
8 activities, multiplied by twenty percent.

9 (2) The additional tax under this section is due in the form and
10 manner determined by the department.

11 (3) For purposes of this section, "selected business activities"
12 means business activities subject to tax under RCW 82.04.230;
13 82.04.240; 82.04.250 (1) or (2); 82.04.255; 82.04.257; 82.04.260 (3),
14 (9), (10), or (13); 82.04.263; 82.04.270; 82.04.280; 82.04.285;
15 82.04.290(2), including the activities described in RCW 82.04.29001,
16 82.04.29005, 82.04.297, and 82.04.540; 82.04.2905; 82.04.2906;
17 82.04.2907; and 82.04.298; and beginning July 1, 2024, the activities
18 taxed under RCW 82.04.260(14).

19 **Sec. 5.** RCW 82.32.045 and 2010 1st sp.s. c 23 s 1103 are each
20 amended to read as follows:

21 (1) Except as otherwise provided in this chapter, payments of the
22 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16
23 RCW, along with reports and returns on forms prescribed by the
24 department, are due monthly within twenty-five days after the end of
25 the month in which the taxable activities occur.

26 (2) The department of revenue may relieve any taxpayer or class
27 of taxpayers from the obligation of remitting monthly and may require
28 the return to cover other longer reporting periods, but in no event
29 may returns be filed for a period greater than one year. For these
30 taxpayers, tax payments are due on or before the last day of the
31 month next succeeding the end of the period covered by the return.

32 (3) The department of revenue may also require verified annual
33 returns from any taxpayer, setting forth such additional information
34 as it may deem necessary to correctly determine tax liability.

35 (4) Notwithstanding subsections (1) and (2) of this section, the
36 department may relieve any person of the requirement to file returns
37 and pay any taxes otherwise due under chapters 82.04 and 82.16 RCW if
38 the following conditions are met:

1 (a) The person's value of products, gross proceeds of sales, or
2 gross income of the business, from all business activities taxable
3 under chapter 82.04 RCW, is less than((+)

4 ~~(i) Twenty-eight thousand dollars per year; or~~

5 ~~(ii) Forty-six thousand six hundred sixty-seven dollars per year~~
6 ~~for persons generating at least fifty percent of their taxable amount~~
7 ~~from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and~~
8 ~~82.04.285)) one hundred fifty thousand dollars per year;~~

9 (b) The person's gross income of the business from all activities
10 taxable under chapter 82.16 RCW is less than twenty-four thousand
11 dollars per year; and

12 (c) The person is not required to collect or pay to the
13 department of revenue any other tax or fee which the department is
14 authorized to collect.

15 NEW SECTION. **Sec. 6.** This act does not affect any existing
16 right acquired or liability or obligation incurred under the sections
17 amended or repealed or under any rule or order adopted under those
18 sections, nor does it affect any proceeding instituted under those
19 sections.

20 NEW SECTION. **Sec. 7.** The tax collection, reporting, and payment
21 obligations imposed by this act apply prospectively only.

22 NEW SECTION. **Sec. 8.** This act takes effect October 1, 2017."

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23 On page 1, line 2 of the title, after "relief;" strike the
24 remainder of the title and insert "amending RCW 82.32.045; adding new
25 sections to chapter 82.04 RCW; creating new sections; repealing RCW
26 82.04.4451; providing an effective date; and providing an expiration
27 date."

EFFECT: (1) The filing threshold for B&O taxes is increased to
\$150,000. A deduction of \$250,000 is authorized for businesses with a
taxable amount of less than or equal to \$250,000. If a business'
taxable amount is greater than \$250,000, but less than \$500,000,
there is a deduction of \$100,000.

(2) If a taxpayer claims a multiple activities tax credit, they can claim a credit instead of a deduction. The credit for a calendar year will be equal to the lesser of the tax otherwise due for that calendar year or an amount determined as follows:

(a) For a person with a taxable amount of less than or equal to \$250,000: \$250,000 multiplied by the highest applicable B&O rate to the taxpayer; or

(b) For a person with a taxable amount of greater than \$250,000, but less than \$500,000: \$100,000 multiplied by the highest applicable B&O rate to the taxpayer.

(3) A 20 percent surcharge on the B&O tax is imposed for selected business activities:

(a) Beginning July 1, 2017: Extractors, manufacturers, most retailers, real estate brokers, digital products or services, nonprofit research and development, insurance producers, hospitals, salmon canning, radioactive waste clean-up, wholesalers, insurance agents, radio and television broadcasters, government contractors, printers, publishers, highway contractors, extracting or processing for hire, warehousing, contest of chance, international investment management, custom software, loan interest, royalties, professional employer organizations, day care, chemical dependency services, and grocery distribution co-ops; and

(b) Beginning July 1, 2024: Newspapers.

(4) The small business B&O credit is repealed.

(5) Provides an effective date of October 1, 2017.

FISCAL IMPACT: 2 year - \$1.2 billion GF-S revenue increase
4 year - \$2.6 billion GF-S revenue increase

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