
HOUSE BILL 2186

State of Washington 65th Legislature 2017 Regular Session

By Representatives Lytton, Jenkins, and Macri

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1 AN ACT Relating to investing in Washington families by improving
2 the fairness of the state's excise tax system by narrowing or
3 eliminating tax preferences, imposing a business and occupation tax
4 surcharge while eliminating tax liability for small businesses,
5 enacting an excise tax on capital gains, modifying the real estate
6 excise tax, making administrative changes, and implementing
7 marketplace fairness in Washington; amending RCW 82.32.045,
8 82.08.0293, 82.12.0293, 82.12.0263, 82.04.290, 82.08.0273, 82.45.060,
9 82.45.010, 82.45.080, 18.27.110, 18.27.200, 82.08.050, 82.12.040,
10 82.32.145, 82.32.060, 82.04.293, 82.04.440, 82.04.44525, and
11 82.04.4463; reenacting and amending RCW 82.04.280 and 82.32.790;
12 adding new sections to chapter 82.04 RCW; adding new sections to
13 chapter 82.32 RCW; adding new sections to chapter 82.08 RCW; adding
14 new sections to chapter 82.12 RCW; adding a new section to chapter
15 43.135 RCW; adding a new section to chapter 39.42 RCW; adding new
16 chapters to Title 82 RCW; creating new sections; repealing RCW
17 82.04.4451 and 82.04.272; repealing 2010 c 106 s 206, 2009 c 461 s 3,
18 2006 c 300 s 7, and 2003 c 149 s 4; prescribing penalties; providing
19 effective dates; providing an expiration date; and declaring an
20 emergency.

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

1 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
2 finds that Washington is a great place to live, work, and raise a
3 family. The legislature further finds that our tax system is the most
4 upside down and regressive in the nation, allowing those who earn the
5 most to pay the least in taxes. The legislature finds that as a
6 percentage of personal income middle class families pay two to four
7 times in taxes compared to top earners. Moreover, low-income
8 Washingtonians pay seven times more in taxes than our wealthiest
9 residents.

10 (2) Further, the legislature recognizes that as a result of the
11 state's regressive tax structure, Washington's small businesses are
12 overburdened. Despite low profit margins, the legislature finds that
13 small businesses are taxed at the same rate as our high profit
14 corporations, without benefiting from the special tax preferences
15 that many of our large corporations enjoy.

16 (3) The legislature finds that this imbalance is not only
17 detrimental for these taxpayers, but that the consequences are
18 damaging for our state budget. The legislature further finds that as
19 a result of this imbalance, the state is losing the ability to fully
20 fund our collective responsibilities, including K-12 education,
21 higher education, economic development, affordable housing, health
22 care, and veteran services. The legislature finds that a healthy and
23 prosperous state requires that these foundational programs be
24 appropriately funded.

25 (4) The legislature does not believe in becoming a high tax
26 state; however, it finds that building a tax system that works for
27 everyone is imperative. The legislature finds that a tax system that
28 strengthens the middle-class economy, helps families and low-income
29 residents, reduces the tax burden on small businesses, and asks the
30 wealthiest among us and those benefiting from record Wall Street
31 profits to contribute their fair share is essential to help all
32 Washingtonians have the freedom to grow and thrive.

33 **Part I**
34 **Capital Gains Tax**

35 NEW SECTION. **Sec. 101.** The definitions in this section apply
36 throughout this chapter unless the context clearly requires
37 otherwise.

1 (1) "Accessory dwelling unit" means a separate habitable living
2 area that is subordinate to the principal single-family dwelling
3 unit, which is either internal to, attached to, or located on the
4 same property tax parcel as, the principal single-family dwelling
5 unit.

6 (2) "Adjusted capital gain" means federal net long-term capital
7 gain:

8 (a) Plus any loss from a sale or exchange that is exempt from the
9 tax imposed in this chapter, to the extent such loss was included in
10 calculating federal net long-term capital gain; and

11 (b) Less any gain from a sale or exchange that is exempt from the
12 tax imposed in this chapter, to the extent such gain was included in
13 calculating federal net long-term capital gain.

14 (3) "Capital asset" has the same meaning as provided by Title 26
15 U.S.C. Sec. 1221 of the internal revenue code and also includes any
16 other property if the sale or exchange of the property results in a
17 gain that is treated as a long-term capital gain under Title 26
18 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

19 (4) "Federal net long-term capital gain" means the net long-term
20 capital gain reportable for federal income tax purposes.

21 (5) "Individual" means a natural person.

22 (6) "Internal revenue code" means the United States internal
23 revenue code of 1986, as amended, as of the effective date of this
24 section, or such subsequent date as the department may provide by
25 rule consistent with the purpose of this chapter.

26 (7) "Long-term capital asset" means a capital asset that is held
27 for more than one year.

28 (8)(a) "Resident" means an individual:

29 (i) Who is domiciled in this state during the taxable year,
30 unless the individual (A) maintained no permanent place of abode in
31 this state during the entire taxable year, (B) maintained a permanent
32 place of abode outside of this state during the entire taxable year,
33 and (C) spent in the aggregate not more than thirty days of the
34 taxable year in this state; or

35 (ii) Who is not domiciled in this state during the taxable year
36 but maintained a place of abode and was physically present in this
37 state for more than one hundred eighty-three days during the taxable
38 year.

1 (b) For purposes of this subsection, "day" includes any portion
2 of a day, except that a continuous period of twenty-four hours or
3 less may not constitute more than one day.

4 (c) An individual who is a resident under (a) of this subsection
5 is a resident for that portion of a taxable year in which the
6 individual was domiciled in this state or maintained a place of abode
7 in this state.

8 (9) "Taxable year" means the taxpayer's taxable year as
9 determined under the internal revenue code.

10 (10) "Taxpayer" means an individual subject to tax under this
11 chapter.

12 (11) "Washington capital gains" means an individual's adjusted
13 capital gains allocated to this state as provided in section 106 of
14 this act, less:

15 (a) Twenty-five thousand dollars; or

16 (b) Fifty thousand dollars for individuals filing joint returns
17 under this chapter.

18 NEW SECTION. **Sec. 102.** (1) Beginning January 1, 2018, a tax is
19 imposed on all individuals for the privilege of selling or exchanging
20 long-term capital assets, or receiving Washington capital gains. The
21 tax equals seven percent multiplied by the individual's Washington
22 capital gains.

23 (2) If an individual's Washington capital gains are less than
24 zero for a taxable year, no tax is due under this section. No such
25 losses may be carried back or carried forward to another taxable
26 year.

27 (3)(a) The tax imposed in this section applies to (i) the sale or
28 exchange of long-term capital assets owned by the taxpayer, whether
29 the taxpayer was the legal or a beneficial owner of such assets at
30 the time of the sale or exchange, or (ii) Washington capital gains
31 otherwise realized by the taxpayer.

32 (b) For purposes of this chapter, an individual is a beneficial
33 owner of long-term capital assets held by an entity that is a pass-
34 through or disregarded entity for federal tax purposes, such as a
35 partnership, limited liability company, S-corporation, or trust, to
36 the extent of the individual's ownership interest in the entity as
37 reported for federal income tax purposes.

1 NEW SECTION. **Sec. 103.** This chapter does not apply to the sale
2 or exchange of:

3 (1) Any residential dwelling, which means property consisting
4 solely of a single-family residence, a residential condominium unit,
5 a residential cooperative unit, or a floating home as defined in RCW
6 82.45.032, including any accessory dwelling unit;

7 (2) Assets held under a retirement savings account under Title 26
8 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered
9 annuity or a custodial account described in Title 26 U.S.C. Sec.
10 403(b) of the internal revenue code, a deferred compensation plan
11 under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an
12 individual retirement account or an individual retirement annuity
13 described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a
14 Roth individual retirement account described in Title 26 U.S.C. Sec.
15 408A of the internal revenue code, an employee defined contribution
16 program, an employee defined benefit plan, or a similar retirement
17 savings vehicle;

18 (3) Assets pursuant to or under imminent threat of condemnation
19 proceedings by the United States, the state or any of its political
20 subdivisions, or a municipal corporation;

21 (4) Cattle, horses, or breeding livestock held for more than
22 twelve months if for the taxable year of the sale or exchange, more
23 than fifty percent of the taxpayer's gross income for the taxable
24 year, including from the sale or exchange of capital assets, is from
25 farming or ranching;

26 (5) Agricultural or timberland by an individual who has regular,
27 continuous, and substantial involvement in the operation of the
28 agricultural or timberland that meets the criteria for material
29 participation in an activity under Title 26 U.S.C. Sec. 469(h) of the
30 internal revenue code for the ten years prior to the date of the sale
31 or exchange of the agricultural land;

32 (6) Property used in a trade or business if the property
33 qualifies for an income tax deduction under Title 26 U.S.C. Sec. 167
34 or 179 of the internal revenue code; and

35 (7) Timber, or the receipt of Washington capital gains as
36 dividends and distributions from real estate investment trusts
37 derived from gains from the sale or exchange of timber. "Timber"
38 means forest trees, standing or down, on privately or publicly owned
39 land, and includes Christmas trees and short-rotation hardwoods. The
40 sale or exchange of timber includes the cutting or disposal of timber

1 qualifying for capital gains treatment under Title 26 U.S.C. Sec.
2 631(a) or (b) of the internal revenue code.

3 NEW SECTION. **Sec. 104.** The tax imposed under this chapter is in
4 addition to any other taxes imposed by the state or any of its
5 political subdivisions, or a municipal corporation, with respect to
6 the same sale or exchange, including the taxes imposed in or under
7 the authority of chapter 82.04, 82.08, 82.12, 82.14, 82.45, or 82.46
8 RCW.

9 NEW SECTION. **Sec. 105.** In computing tax, there may be deducted
10 from the measure of tax amounts that the state is prohibited from
11 taxing under the Constitution of this state or the Constitution or
12 laws of the United States.

13 NEW SECTION. **Sec. 106.** (1) For purposes of the tax imposed
14 under this chapter, adjusted capital gains are allocated as follows:

15 (a) Adjusted capital gains from the sale or exchange of real
16 property are allocated to this state if the real property is located
17 in this state or a majority of the fair market value of the real
18 property is located in this state.

19 (b) Adjusted capital gains from the sale or exchange of tangible
20 personal property are allocated to this state if the property was
21 located in this state at the time of the sale or exchange. Adjusted
22 capital gains from the sale or exchange of tangible personal property
23 are also allocated to this state even though the property was not
24 located in this state at the time of the sale or exchange if:

25 (i) The property was located in the state at any time during the
26 taxable year in which the sale or exchange occurred or the
27 immediately preceding taxable year;

28 (ii) The taxpayer was a resident at the time the sale or exchange
29 occurred; and

30 (iii) The taxpayer is not subject to the payment of an income or
31 excise tax legally imposed on the adjusted capital gain by another
32 taxing jurisdiction.

33 (c) Adjusted capital gains derived from intangible personal
34 property are allocated to this state if the taxpayer was domiciled in
35 this state at the time the sale or exchange occurred.

36 (2)(a) A credit is allowed against the tax imposed in section 102
37 of this act equal to the amount of any legally imposed income or

1 excise tax paid by the taxpayer to another taxing jurisdiction on
2 capital gains derived from capital assets within the other taxing
3 jurisdiction to the extent such capital gains are included in the
4 taxpayer's Washington capital gains. The amount of credit under this
5 subsection may not exceed the total amount of tax due under this
6 chapter, and there is no carryback or carryforward of any unused
7 credits.

8 (b) As used in this section, "taxing jurisdiction" means a state
9 of the United States other than the state of Washington, the District
10 of Columbia, the Commonwealth of Puerto Rico, any territory or
11 possession of the United States, or any foreign country or political
12 subdivision of a foreign country.

13 NEW SECTION. **Sec. 107.** (1) Except as otherwise provided in this
14 section or RCW 82.32.080, taxpayers owing tax under this chapter must
15 file, on forms prescribed by the department, a return with the
16 department on or before the date the taxpayer's federal income tax
17 return for the taxable year is required to be filed.

18 (2) In addition to the Washington return required to be filed
19 under subsection (1) of this section, taxpayers owing tax under this
20 chapter must file with the department on or before the date the
21 federal return is required to be filed a copy of the federal income
22 tax return along with all schedules and supporting documentation.

23 (3) Each taxpayer required to file a return under this section
24 must, without assessment, notice, or demand, pay any tax due thereon
25 to the department on or before the date fixed for the filing of the
26 return, regardless of any filing extension. If any tax due under this
27 chapter is not paid by the due date, interest and penalties as
28 provided in chapter 82.32 RCW apply to the deficiency.

29 (4) The department may by rule require that certain individuals
30 and other persons file, at times and on forms prescribed by the
31 department, informational returns for any period.

32 (5) If a taxpayer has obtained an extension of time for filing
33 the federal income tax return for the taxable year, the taxpayer is
34 entitled to the same extension of time for filing the return required
35 under this section if the taxpayer provides the department, before
36 the due date provided in subsection (1) of this section, the
37 extension confirmation number or other evidence satisfactory to the
38 department confirming the federal extension. An extension under this

1 subsection for the filing of a return under this chapter is not an
2 extension of time to pay the tax due under this chapter.

3 (6)(a) If any return due under subsection (1) of this section,
4 along with a copy of the federal income tax return, is not filed with
5 the department by the due date or any extension granted by the
6 department, the department must assess a penalty in the amount of
7 five percent of the tax due for the taxable year covered by the
8 return for each month or portion of a month that the return remains
9 unfiled. The total penalty assessed under this subsection may not
10 exceed twenty-five percent of the tax due for the taxable year
11 covered by the delinquent return. The penalty under this subsection
12 is in addition to any penalties assessed for the late payment of any
13 tax due on the return.

14 (b) The department must waive or cancel the penalty imposed under
15 this subsection if:

16 (i) The department is persuaded that the taxpayer's failure to
17 file the return by the due date was due to circumstances beyond the
18 taxpayer's control; or

19 (ii) The taxpayer has not been delinquent in filing any return
20 due under this section during the preceding five calendar years.

21 NEW SECTION. **Sec. 108.** (1) If the federal income tax
22 liabilities of both spouses are determined on a joint federal return
23 for the taxable year, they must file a joint return under this
24 chapter.

25 (2) Except as otherwise provided in this subsection, if the
26 federal income tax liability of either spouse is determined on a
27 separate federal return for the taxable year, they must file separate
28 returns under this chapter. State registered domestic partners may
29 file a joint return under this chapter even if they filed separate
30 federal returns for the taxable year.

31 (3) In any case in which a joint return is filed under this
32 section, the liability of each spouse or state registered domestic
33 partner is joint and several, unless:

34 (a) The spouse is relieved of liability for federal tax purposes
35 as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue
36 code; or

37 (b) The department determines that the domestic partner qualifies
38 for relief as provided by rule of the department. Such rule, to the

1 extent possible without being inconsistent with this chapter, must
2 follow Title 26 U.S.C. Sec. 6015.

3 NEW SECTION. **Sec. 109.** To the extent not inconsistent with the
4 provisions of this chapter, the following statutes apply to the
5 administration of taxes imposed under this chapter: RCW 82.32.050,
6 82.32.055, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090,
7 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130,
8 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190,
9 82.32.200, 82.32.210, 82.32.212, 82.32.220, 82.32.230, 82.32.235,
10 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310,
11 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410,
12 82.32.805, 82.32.808, and section 114 of this act.

13 NEW SECTION. **Sec. 110.** (1) Any taxpayer who knowingly attempts
14 to evade payment of the tax imposed under this chapter is guilty of a
15 class C felony as provided in chapter 9A.20 RCW.

16 (2) Any taxpayer who knowingly fails to pay tax, make returns,
17 keep records, or supply information, as required under this title, is
18 guilty of a gross misdemeanor as provided in chapter 9A.20 RCW.

19 NEW SECTION. **Sec. 111.** All revenue from taxes collected under
20 this chapter, including penalties and interest on such taxes, must be
21 deposited in the education legacy trust account created in RCW
22 83.100.230.

23 NEW SECTION. **Sec. 112.** Notwithstanding any common law rule of
24 strict construction of statutes imposing taxes, this chapter, being
25 necessary for the welfare of the state and its inhabitants, must be
26 liberally construed in support of application of the tax.

27 NEW SECTION. **Sec. 113.** A new section is added to chapter 82.04
28 RCW to read as follows:

29 A deduction is allowed against a person's gross income of the
30 business to the extent necessary to avoid taxing the same amounts
31 under this chapter and section 102 of this act.

32 NEW SECTION. **Sec. 114.** A new section is added to chapter 82.32
33 RCW to read as follows:

1 (1) The department may enter into reciprocal tax collection
2 agreements with the taxing officials of any other state imposing a
3 specified tax. Agreements authorized under this section must require
4 each state to offset delinquent specified taxes owed by a taxpayer to
5 one party to the agreement, including any associated penalties,
6 interest, or other additions, against refunds of overpaid specified
7 taxes owed to the taxpayer by the other party to the agreement. Such
8 agreements may also include provisions governing the sharing of
9 information relevant to the administration of specified taxes.
10 However, the department may not share return or tax information with
11 other states except as allowed under RCW 82.32.330. Likewise, the
12 department may not share federal tax information with other states
13 without the express written consent of the internal revenue service.

14 (2) The definitions in this subsection apply throughout this
15 section unless the context clearly requires otherwise.

16 (a) "Specified taxes" means generally applicable state and local
17 sales tax and use taxes, broad-based state gross receipts taxes,
18 state income taxes, and stand-alone state taxes on capital gains or
19 interest and dividends. "Specified taxes" include, but are not
20 limited to, the taxes imposed in or under the authority of chapters
21 82.04, 82.08, 82.12, 82.14, 82.16, and 82.--- RCW (the new chapter
22 created in section 1101 of this act), and similar taxes imposed by
23 another state. For purposes of this subsection (2)(a), "gross
24 receipts tax," "income tax," "sales tax," and "use tax" have the same
25 meanings as provided in RCW 82.56.010.

26 (b) "State" has the same meaning as provided in RCW 82.56.010.

27 **Part II**
28 **B&O Rate Change & Deduction**

29 NEW SECTION. **Sec. 201.** RCW 82.04.4451 (Credit against tax due—
30 Maximum credit—Table) and 2010 1st sp.s. c 23 s 1102, 1997 c 238 s 2,
31 & 1994 sp.s. c 2 s 1 are each repealed.

32 NEW SECTION. **Sec. 202.** A new section is added to chapter 82.04
33 RCW to read as follows:

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

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

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

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

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

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

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

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

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

1 reporting period in the current calendar year. No refunds are allowed
2 for the deduction and credit under this section.

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

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

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

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

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

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

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

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

38 NEW SECTION. **Sec. 203.** A new section is added to chapter 82.04
39 RCW to read as follows:

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

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

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

17 **Sec. 204.** RCW 82.32.045 and 2010 1st sp.s. c 23 s 1103 are each
18 amended to read as follows:

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

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

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

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

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

1 ~~(i) Twenty eight thousand dollars per year; or~~
2 ~~(ii) Forty six thousand six hundred sixty seven dollars per year~~
3 ~~for persons generating at least fifty percent of their taxable amount~~
4 ~~from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and~~
5 ~~82.04.285)) one hundred fifty thousand dollars per year;~~

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

9 (c) The person is not required to collect or pay to the
10 department of revenue any other tax or fee which the department is
11 authorized to collect.

12 Part III

13 Eliminating or Narrowing Tax Preferences

14 Subpart A

15 Eliminating the Sales and Use Tax Exemption for Bottled Water

16 **Sec. 301.** RCW 82.08.0293 and 2014 c 140 s 22 are each amended to
17 read as follows:

18 (1) The tax levied by RCW 82.08.020 does not apply to sales of
19 food and food ingredients. "Food and food ingredients" means
20 substances, whether in liquid, concentrated, solid, frozen, dried, or
21 dehydrated form, that are sold for ingestion or chewing by humans and
22 are consumed for their taste or nutritional value. "Food and food
23 ingredients" does not include:

24 (a) "Alcoholic beverages," which means beverages that are
25 suitable for human consumption and contain one-half of one percent or
26 more of alcohol by volume;

27 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe
28 tobacco, or any other item that contains tobacco; and

29 (c) Marijuana, useable marijuana, or marijuana-infused products.

30 (2) The exemption of "food and food ingredients" provided for in
31 subsection (1) of this section does not apply to prepared food, soft
32 drinks, bottled water, or dietary supplements. (~~For purposes of this~~
33 ~~subsection, the following definitions apply:*) The definitions in
34 this subsection apply throughout this section unless the context
35 clearly requires otherwise.~~

36 (a) "Bottled water" means water that is placed in a safety sealed
37 container or package for human consumption. Bottled water is calorie

1 free and does not contain sweeteners or other additives except that
2 it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)
3 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;
4 (vi) preservatives; and (vii) only those flavors, extracts, or
5 essences derived from a spice or fruit. "Bottled water" includes
6 water that is delivered to the buyer in a reusable container that is
7 not sold with the water.

8 (b) "Dietary supplement" means any product, other than tobacco,
9 intended to supplement the diet that:

10 (i) Contains one or more of the following dietary ingredients:

11 (A) A vitamin;

12 (B) A mineral;

13 (C) An herb or other botanical;

14 (D) An amino acid;

15 (E) A dietary substance for use by humans to supplement the diet
16 by increasing the total dietary intake; or

17 (F) A concentrate, metabolite, constituent, extract, or
18 combination of any ingredient described in this subsection;

19 (ii) Is intended for ingestion in tablet, capsule, powder,
20 softgel, gelcap, or liquid form, or if not intended for ingestion in
21 such form, is not represented as conventional food and is not
22 represented for use as a sole item of a meal or of the diet; and

23 (iii) Is required to be labeled as a dietary supplement,
24 identifiable by the "supplement facts" box found on the label as
25 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered
26 as of January 1, 2003.

27 ((b)) (c)(i) "Prepared food" means:

28 (A) Food sold in a heated state or heated by the seller;

29 (B) Food sold with eating utensils provided by the seller,
30 including plates, knives, forks, spoons, glasses, cups, napkins, or
31 straws. A plate does not include a container or packaging used to
32 transport the food; or

33 (C) Two or more food ingredients mixed or combined by the seller
34 for sale as a single item, except:

35 (I) Food that is only cut, repackaged, or pasteurized by the
36 seller; or

37 (II) Raw eggs, fish, meat, poultry, and foods containing these
38 raw animal foods requiring cooking by the consumer as recommended by
39 the federal food and drug administration in chapter 3, part 401.11 of
40 The Food Code, published by the food and drug administration, as

1 amended or renumbered as of January 1, 2003, so as to prevent
2 foodborne illness.

3 (ii) "Prepared food" does not include the following food or food
4 ingredients, if the food or food ingredients are sold without eating
5 utensils provided by the seller:

6 (A) Food sold by a seller whose proper primary North American
7 industry classification system (NAICS) classification is
8 manufacturing in sector 311, except subsector 3118 (bakeries), as
9 provided in the "North American industry classification system—United
10 States, 2002";

11 (B) Food sold in an unheated state by weight or volume as a
12 single item; or

13 (C) Bakery items. The term "bakery items" includes bread, rolls,
14 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
15 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

16 (~~(e)~~) (d) "Soft drinks" means nonalcoholic beverages that
17 contain natural or artificial sweeteners. Soft drinks do not include
18 beverages that contain: Milk or milk products; soy, rice, or similar
19 milk substitutes; or greater than fifty percent of vegetable or fruit
20 juice by volume.

21 (3) Notwithstanding anything in this section to the contrary, the
22 exemption of "food and food ingredients" provided in this section
23 applies to food and food ingredients that are furnished, prepared, or
24 served as meals:

25 (a) Under a state administered nutrition program for the aged as
26 provided for in the older Americans act (P.L. 95-478 Title III) and
27 RCW 74.38.040(6);

28 (b) That are provided to senior citizens, individuals with
29 disabilities, or low-income persons by a not-for-profit organization
30 organized under chapter 24.03 or 24.12 RCW; or

31 (c) That are provided to residents, sixty-two years of age or
32 older, of a qualified low-income senior housing facility by the
33 lessor or operator of the facility. The sale of a meal that is billed
34 to both spouses of a marital community or both domestic partners of a
35 domestic partnership meets the age requirement in this subsection
36 (3)(c) if at least one of the spouses or domestic partners is at
37 least sixty-two years of age. For purposes of this subsection,
38 "qualified low-income senior housing facility" means a facility:

1 (i) That meets the definition of a qualified low-income housing
2 project under 26 U.S.C. Sec. 42 of the federal internal revenue code,
3 as existing on August 1, 2009;

4 (ii) That has been partially funded under 42 U.S.C. Sec. 1485;
5 and

6 (iii) For which the lessor or operator has at any time been
7 entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42
8 of the federal internal revenue code.

9 (4)(a) Subsection (1) of this section notwithstanding, the retail
10 sale of food and food ingredients is subject to sales tax under RCW
11 82.08.020 if the food and food ingredients are sold through a vending
12 machine. Except as provided in (b) of this subsection, the selling
13 price of food and food ingredients sold through a vending machine for
14 purposes of RCW 82.08.020 is fifty-seven percent of the gross
15 receipts.

16 (b) For soft drinks, bottled water, and hot prepared food and
17 food ingredients, other than food and food ingredients which are
18 heated after they have been dispensed from the vending machine, the
19 selling price is the total gross receipts of such sales divided by
20 the sum of one plus the sales tax rate expressed as a decimal.

21 (c) For tax collected under this subsection (4), the requirements
22 that the tax be collected from the buyer and that the amount of tax
23 be stated as a separate item are waived.

24 **Sec. 302.** RCW 82.12.0293 and 2011 c 2 s 303 are each amended to
25 read as follows:

26 (1) The provisions of this chapter do not apply in respect to the
27 use of food and food ingredients for human consumption. "Food and
28 food ingredients" has the same meaning as in RCW 82.08.0293.

29 (2) The exemption of "food and food ingredients" provided for in
30 subsection (1) of this section does not apply to prepared food, soft
31 drinks, bottled water, or dietary supplements. "Prepared food," "soft
32 drinks," "bottled water," and "dietary supplements" have the same
33 meanings as in RCW 82.08.0293.

34 (3) Notwithstanding anything in this section to the contrary, the
35 exemption of "food and food ingredients" provided in this section
36 applies to food and food ingredients which are furnished, prepared,
37 or served as meals:

1 (a) Under a state administered nutrition program for the aged as
2 provided for in the older Americans act (P.L. 95-478 Title III) and
3 RCW 74.38.040(6);

4 (b) Which are provided to senior citizens, individuals with
5 disabilities, or low-income persons by a not-for-profit organization
6 organized under chapter 24.03 or 24.12 RCW; or

7 (c) That are provided to residents, sixty-two years of age or
8 older, of a qualified low-income senior housing facility by the
9 lessor or operator of the facility. The sale of a meal that is billed
10 to both spouses of a marital community or both domestic partners of a
11 domestic partnership meets the age requirement in this subsection
12 (3)(c) if at least one of the spouses or domestic partners is at
13 least sixty-two years of age. For purposes of this subsection,
14 "qualified low-income senior housing facility" has the same meaning
15 as in RCW 82.08.0293.

16 NEW SECTION. **Sec. 303.** A new section is added to chapter 82.08
17 RCW to read as follows:

18 (1) Subject to the conditions in this section, the tax levied by
19 RCW 82.08.020 does not apply to sales of bottled water dispensed or
20 to be dispensed to patients pursuant to a prescription for use in the
21 cure, mitigation, treatment, or prevention of disease or medical
22 condition.

23 (2) For purposes of this section, "prescription" means an order,
24 formula, or recipe issued in any form of oral, written, electronic,
25 or other means of transmission by a duly licensed practitioner
26 authorized by the laws of this state to prescribe.

27 (3) Except for sales of bottled water delivered to the buyer in a
28 reusable container that is not sold with the water, sellers must
29 collect tax on sales subject to this exemption. Any buyer that has
30 paid at least twenty-five dollars in state and local sales taxes on
31 purchases of bottled water subject to this exemption may apply for a
32 refund of the taxes directly from the department in a form and manner
33 prescribed by the department. The department must deny any refund
34 application if the amount of the refund requested is less than
35 twenty-five dollars. No refund may be made for taxes paid more than
36 four years after the end of the calendar year in which the tax was
37 paid to the seller.

38 (4) With respect to sales of bottled water delivered to the buyer
39 in a reusable container that is not sold with the water, buyers

1 claiming the exemption provided in this section must provide the
2 seller with an exemption certificate in a form and manner prescribed
3 by the department. The seller must retain a copy of the certificate
4 for the seller's files.

5 NEW SECTION. **Sec. 304.** A new section is added to chapter 82.12
6 RCW to read as follows:

7 (1) The provisions of this chapter do not apply in respect to the
8 use of bottled water dispensed or to be dispensed to patients
9 pursuant to a prescription for use in the cure, mitigation,
10 treatment, or prevention of disease or medical condition.

11 (2) For the purposes of this section, "prescription" has the same
12 meaning as provided in section 303 of this act.

13 NEW SECTION. **Sec. 305.** A new section is added to chapter 82.08
14 RCW to read as follows:

15 (1)(a) Subject to the conditions in this section, the tax levied
16 by RCW 82.08.020 does not apply to sales of bottled water to persons
17 whose primary source of drinking water is unsafe.

18 (b) For purposes of this subsection and section 306 of this act,
19 a person's primary source of drinking water is unsafe if:

20 (i) The public water system providing the drinking water has
21 issued a public notification that the drinking water may pose a
22 health risk, and the notification is still in effect on the date that
23 the bottled water was purchased;

24 (ii) Test results on the person's drinking water, which are no
25 more than twelve months old, from a laboratory certified to perform
26 drinking water testing show that the person's drinking water does not
27 meet safe drinking water standards applicable to public water
28 systems; or

29 (iii) The person otherwise establishes, to the department's
30 satisfaction, that the person's drinking water does not meet safe
31 drinking water standards applicable to public water systems.

32 (2) Except for sales of bottled water delivered to the buyer in a
33 reusable container that is not sold with the water, sellers must
34 collect tax on sales subject to this exemption. Any buyer that has
35 paid at least twenty-five dollars in state and local sales taxes on
36 purchases of bottled water subject to this exemption may apply for a
37 refund of the taxes directly from the department in a form and manner
38 prescribed by the department. The department must deny any refund

1 application if the amount of the refund requested is less than
2 twenty-five dollars. No refund may be made for taxes paid more than
3 four years after the end of the calendar year in which the tax was
4 paid to the seller.

5 (3)(a) With respect to sales of bottled water delivered to the
6 buyer in a reusable container that is not sold with the water, buyers
7 claiming the exemption provided in this section must provide the
8 seller with an exemption certificate in a form and manner prescribed
9 by the department. The seller must retain a copy of the certificate
10 for the seller's files.

11 (b) The department may waive the requirement for an exemption
12 certificate in the event of disaster or similar circumstance.

13 NEW SECTION. **Sec. 306.** A new section is added to chapter 82.12
14 RCW to read as follows:

15 The provisions of this chapter do not apply in respect to the use
16 of bottled water by persons whose primary source of drinking water is
17 unsafe as provided in section 305 of this act.

18 **Subpart B**
19 **Repealing the Preferential Business and Occupation Tax Rate for**
20 **Warehousing and Reselling Prescription Drugs**

21 NEW SECTION. **Sec. 307.** RCW 82.04.272 (Tax on warehousing and
22 reselling prescription drugs) and 2013 c 19 s 127, 2003 c 168 s 401,
23 & 1998 c 343 s 1 are each repealed.

24 NEW SECTION. **Sec. 308.** Section 307 of this act applies to taxes
25 due for reporting periods beginning on or after the effective date of
26 section 307 of this act.

27 **Subpart C**
28 **Narrowing a Use Tax Exemption for Self-Produced Fuel**

29 **Sec. 309.** RCW 82.12.0263 and 1980 c 37 s 62 are each amended to
30 read as follows:

31 The provisions of this chapter (~~shall~~) do not apply in respect
32 to the use of biomass fuel by the extractor or manufacturer thereof
33 when used directly in the operation of the particular extractive
34 operation or manufacturing plant which produced or manufactured the

1 same. For purposes of this section, "biomass fuel" means wood waste
2 and other wood residuals, including forest derived biomass, but does
3 not include firewood or wood pellets. "Biomass fuel" also includes
4 partially organic by-products of pulp, paper, and wood manufacturing
5 processes.

6 NEW SECTION. Sec. 310. A new section is added to chapter 82.12
7 RCW to read as follows:

8 (1) The value of the article used with respect to refinery fuel
9 gas under this chapter is the most recent monthly United States
10 natural gas wellhead price, as published by the federal energy
11 information administration.

12 (2) In lieu of the use tax rate provided in RCW 82.12.020,
13 refinery fuel gas is subject to a rate of 3.852 percent.

14 NEW SECTION. Sec. 311. Sections 309 and 310, chapter . . . ,
15 Laws of 2017 (sections 309 and 310 of this act) apply with respect to
16 fuel, other than biomass fuel, consumed within this state on or after
17 the effective date of sections 309 and 310, chapter . . . , Laws of
18 2017 (sections 309 and 310 of this act), regardless of whether such
19 fuel was produced or manufactured before the effective date of
20 sections 309 and 310, chapter . . . , Laws of 2017 (sections 309 and
21 310 of this act). For purposes of this section, "consumed" means the
22 use of fuel resulting in the release of usable energy.

23 **Subpart D**
24 **Eliminating the Preferential Business and Occupation Tax Rate for**
25 **International Investment Management Services**

26 **Sec. 312.** RCW 82.04.290 and 2014 c 97 s 404 are each amended to
27 read as follows:

28 (1) ~~((Upon every person engaging within this state in the~~
29 ~~business of providing international investment management services,~~
30 ~~as to such persons, the amount of tax with respect to such business~~
31 ~~is equal to the gross income or gross proceeds of sales of the~~
32 ~~business multiplied by a rate of 0.275 percent.)) (a) Until July 1,
33 2040, upon every person engaging within this state in the business of
34 performing aerospace product development for others, as to such
35 persons, the amount of tax with respect to such business is equal to
36 the gross income of the business multiplied by a rate of 0.9 percent.~~

1 (b) A person reporting under the tax rate provided in this
2 subsection (1) must file a complete annual report with the department
3 under RCW 82.32.534.

4 (c) "Aerospace product development" has the meaning as provided
5 in RCW 82.04.4461.

6 (2)(a) Upon every person engaging within this state in any
7 business activity other than or in addition to an activity taxed
8 explicitly under another section in this chapter or subsection (1)
9 (~~(or (3))~~) of this section; as to such persons the amount of tax on
10 account of such activities is equal to the gross income of the
11 business multiplied by the rate of 1.5 percent.

12 (b) This subsection (2) includes, among others, and without
13 limiting the scope hereof (whether or not title to materials used in
14 the performance of such business passes to another by accession,
15 confusion or other than by outright sale), persons engaged in the
16 business of rendering any type of service which does not constitute a
17 "sale at retail" or a "sale at wholesale." The value of advertising,
18 demonstration, and promotional supplies and materials furnished to an
19 agent by his or her principal or supplier to be used for
20 informational, educational, and promotional purposes is not
21 considered a part of the agent's remuneration or commission and is
22 not subject to taxation under this section.

23 ~~((3)(a) Until July 1, 2040, upon every person engaging within~~
24 ~~this state in the business of performing aerospace product~~
25 ~~development for others, as to such persons, the amount of tax with~~
26 ~~respect to such business is equal to the gross income of the business~~
27 ~~multiplied by a rate of 0.9 percent.~~

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

31 ~~(c) "Aerospace product development" has the meaning as provided~~
32 ~~in RCW 82.04.4461.)~~

33 NEW SECTION. Sec. 313. Section 312 of this act applies to taxes
34 due for reporting periods beginning on or after the effective date of
35 section 312 of this act.

36 **Subpart E**

37 **Nonresident Sales Tax Exemption Remittance**

1 **Sec. 314.** RCW 82.08.0273 and 2014 c 140 s 17 are each amended to
2 read as follows:

3 (1) (~~The tax levied by RCW 82.08.020 does not apply to~~) Subject
4 to the conditions and limitations in this section, an exemption from
5 the tax levied by RCW 82.08.020 in the form of a remittance from the
6 department is provided for sales to nonresidents of this state of
7 tangible personal property, digital goods, and digital codes(~~(~~
8 ~~when)~~). The exemption only applies if:

9 (a) The property is for use outside this state;

10 (b) The purchaser is a bona fide resident of a province or
11 territory of Canada or a state, territory, or possession of the
12 United States, other than the state of Washington; and

13 (i) Such state, possession, territory, or province does not
14 impose, or have imposed on its behalf, a generally applicable retail
15 sales tax, use tax, value added tax, gross receipts tax on retailing
16 activities, or similar generally applicable tax, of three percent or
17 more; or

18 (ii) If imposing a tax described in (b)(i) of this subsection,
19 provides an exemption for sales to Washington residents by reason of
20 their residence; and

21 (c) The purchaser agrees, when requested, to grant the department
22 of revenue access to such records and other forms of verification at
23 (~~his or her~~) the purchaser's place of residence to assure that such
24 purchases are not first used substantially in the state of
25 Washington.

26 (2) Notwithstanding anything to the contrary in this chapter, if
27 parts or other tangible personal property are installed by the seller
28 during the course of repairing, cleaning, altering, or improving
29 motor vehicles, trailers, or campers and the seller makes a separate
30 charge for the tangible personal property, the tax levied by RCW
31 82.08.020 does not apply to the separately stated charge to a
32 nonresident purchaser for the tangible personal property but only if
33 the seller certifies in writing to the purchaser that the separately
34 stated charge does not exceed either the seller's current publicly
35 stated retail price for the tangible personal property or, if no
36 publicly stated retail price is available, the seller's cost for the
37 tangible personal property. However, the exemption provided by this
38 section does not apply if tangible personal property is installed by
39 the seller during the course of repairing, cleaning, altering, or
40 improving motor vehicles, trailers, or campers and the seller makes a

1 single nonitemized charge for providing the tangible personal
2 property and service. All of the ~~((requirements))~~ provisions in
3 subsections (1) and (3) through ~~((+6+))~~ (7) of this section apply to
4 this subsection.

5 (3)(a) Any person claiming exemption from retail sales tax under
6 the provisions of this section must ~~((display proof of his or her
7 current nonresident status as provided in this section))~~ pay the
8 state and local sales tax to the seller at the time of purchase and
9 then request a remittance from the department in accordance with this
10 subsection and subsection (4) of this section. A request for
11 remittance must include proof of the person's status as a nonresident
12 at the time of the purchase for which a remittance is requested. The
13 request for a remittance must also include any additional information
14 and documentation as required by the department, which may include a
15 description of the item purchased for which a remittance is
16 requested, the sales price of the item, the amount of sales tax paid
17 on the item, the date of the purchase, the name of the seller and the
18 physical address where the sale took place, and copies of sales
19 receipts showing the qualified purchases.

20 (b) Acceptable proof of a nonresident person's status includes
21 one piece of identification such as a valid driver's license from the
22 jurisdiction in which the out-of-state residency is claimed or a
23 valid identification card which has a photograph of the holder and is
24 issued by the out-of-state jurisdiction. Identification under this
25 subsection (3)(b) must show the holder's residential address and have
26 as one of its legal purposes the establishment of residency in that
27 out-of-state jurisdiction.

28 ~~((c) In lieu of furnishing proof of a person's nonresident
29 status under (b) of this subsection (3), a person claiming exemption
30 from retail sales tax under the provisions of this section may
31 provide the seller with an exemption certificate in compliance with
32 subsection (4)(b) of this section.))~~

33 (4)(a) ~~((Nothing in this section requires the vendor to make tax
34 exempt retail sales to nonresidents. A vendor may choose to make
35 sales to nonresidents, collect the sales tax, and remit the amount of
36 sales tax collected to the state as otherwise provided by law. If the
37 vendor chooses to make a sale to a nonresident without collecting the
38 sales tax, the vendor must examine the purchaser's proof of
39 nonresidence, determine whether the proof is acceptable under
40 subsection (3)(b) of this section, and maintain records for each~~

1 nontaxable sale which must show the type of proof accepted, including
2 any identification numbers where appropriate, and the expiration
3 date, if any.

4 (b) In lieu of using the method provided in (a) of this
5 subsection to document an exempt sale to a nonresident, a seller may
6 accept from the purchaser a properly completed uniform exemption
7 certificate approved by the streamlined sales and use tax agreement
8 governing board or any other exemption certificate as may be
9 authorized by the department and properly completed by the purchaser.
10 A nonresident purchaser who uses an exemption certificate authorized
11 in this subsection (4)(b) must include the purchaser's driver's
12 license number or other state issued identification number and the
13 state of issuance.

14 (c) In lieu of using the methods provided in (a) and (b) of this
15 subsection to document an exempt sale to a nonresident, a seller may
16 capture the relevant data elements as allowed under the streamlined
17 sales and use tax agreement.

18 (5)(a) Any person making fraudulent statements, which includes
19 the offer of fraudulent identification or fraudulently procured
20 identification to a vendor, in order to purchase goods without paying
21 retail sales tax is guilty of perjury under chapter 9A.72 RCW.

22 (b) Any person making tax exempt purchases under this section by
23 displaying proof of identification not his or her own, or counterfeit
24 identification, with intent to violate the provisions of this
25 section, is guilty of a misdemeanor and, in addition, is liable for
26 the tax and subject to a penalty equal to the greater of one hundred
27 dollars or the tax due on such purchases.

28 (6)(a) Any vendor who makes sales without collecting the tax and
29 who fails to maintain records of sales to nonresidents as provided in
30 this section is personally liable for the amount of tax due.

31 (b) Any vendor who makes sales without collecting the retail
32 sales tax under this section and who has actual knowledge that the
33 purchaser's proof of identification establishing out-of-state
34 residency is fraudulent is guilty of a misdemeanor and, in addition,
35 is liable for the tax and subject to a penalty equal to the greater
36 of one thousand dollars or the tax due on such sales. In addition,
37 both the purchaser and the vendor are liable for any penalties and
38 interest assessable under chapter 82.32 RCW.

39 (7)) (i) Beginning January 1, 2018, through December 31, 2018, a
40 person may request a remittance from the department for state sales

1 taxes paid by the person on qualified retail purchases made in
2 Washington between July 1, 2017, and December 31, 2017.

3 (ii) Beginning January 1, 2019, a person may request a remittance
4 from the department during any calendar year for state sales taxes
5 paid by the person on qualified retail purchases made in Washington
6 during the immediately preceding calendar year only. No application
7 may be made with respect to purchases made before the immediately
8 preceding calendar year.

9 (b) The remittance request, including proof of nonresident status
10 and any other documentation and information required by the
11 department, must be provided in a form and manner as prescribed by
12 the department. Only one remittance request may be made by a person
13 per calendar year.

14 (c) The total amount of a remittance request must be at least
15 twenty-five dollars. The department must deny any request for a
16 remittance that is less than twenty-five dollars.

17 (d) The department will examine the applicant's proof of
18 nonresident status and any other documentation and information as
19 required in the application to determine whether the applicant is
20 entitled to a remittance under this section.

21 (5)(a) Any person making fraudulent statements to the department,
22 which includes the offer of fraudulent or fraudulently procured
23 identification or fraudulent sales receipts, in order to receive a
24 remittance of retail sales tax is guilty of perjury under chapter
25 9A.72 RCW and is ineligible to receive any further remittances from
26 the department under this section.

27 (b) Any person obtaining a remittance of retail sales tax from
28 the department by providing proof of identification or sales receipts
29 not the person's own, or counterfeit identification or sales receipts
30 is (i) liable for repayment of the remittance, including interest as
31 provided in chapter 82.32 RCW from the date the remittance was
32 transmitted to the person until repaid in full, (ii) liable for a
33 civil penalty equal to the greater of one hundred dollars or the
34 amount of the remittance obtained in violation of this subsection
35 (5)(b), and (iii) ineligible to receive any further remittances from
36 the department under this section.

37 (c) Any person assisting another person in obtaining a remittance
38 of retail sales tax in violation of (b) of this subsection is jointly
39 and severally liable for amounts due under (b) of this subsection and

1 is also ineligible to receive any further remittances from the
2 department under this section.

3 (6) A person who receives a refund of sales tax from the seller
4 for any reason with respect to a purchase made in this state is not
5 entitled to a remittance for the tax paid on the purchase. A person
6 who receives both a remittance under this section and a refund of
7 sales tax from the seller with respect to the same purchase must
8 immediately repay the remittance to the department. Interest as
9 provided in chapter 82.32 RCW applies to amounts due under this
10 section from the date that the department made the remittance until
11 the amount due under this subsection is paid to the department. A
12 person who receives a remittance with respect to a purchase for which
13 the person had, at the time the person submitted the application for
14 a remittance, already received a refund of sales tax from the seller
15 is also liable for a civil penalty equal to the greater of one
16 hundred dollars or the amount of the remittance obtained in violation
17 of this subsection and is ineligible to receive any further
18 remittances from the department under this section.

19 (7) The exemption provided by this section is only for the state
20 portion of the sales tax. For purposes of this section, the state
21 portion of the sales tax is not reduced by any local sales tax that
22 is deducted or credited against the state sales tax as provided by
23 law.

24 (8) The exemption in this section does not apply to sales of
25 marijuana, useable marijuana, or marijuana-infused products.

Part IV

Real Estate Excise Taxes

Subpart A

Graduated Real Estate Excise Tax Rates

30 **Sec. 401.** RCW 82.45.060 and 2013 2nd sp.s. c 9 s 6 are each
31 amended to read as follows:

32 (1) There is imposed an excise tax upon each sale of real
33 property at the ~~((rate of one and twenty-eight one-hundredths percent~~
34 ~~of the selling price.)) following rates multiplied by the selling~~
35 price:

36 (a) Three-quarters percent if the selling price is less than two
37 hundred fifty thousand dollars;

1 (b) One and twenty-eight one-hundredths percent if the selling
2 price is equal to or greater than two hundred fifty thousand dollars
3 but less than one million dollars;

4 (c) Two percent if the selling price is equal to or greater than
5 one million dollars but less than five million dollars; or

6 (d) Two and one-half percent if the selling price is equal to or
7 greater than five million dollars.

8 (2) Beginning July 1, 2013, and ending June 30, 2019, an amount
9 equal to two percent of the proceeds of this tax revenue remaining
10 after the calculations and deposits made pursuant to section 901(2)
11 of this act must be deposited in the public works assistance account
12 created in RCW 43.155.050, and an amount equal to four and one-tenth
13 percent of this tax revenue remaining after the calculations and
14 deposits made pursuant to section 901(2) of this act must be
15 deposited in the education legacy trust account created in RCW
16 83.100.230. Thereafter, an amount equal to six and one-tenth percent
17 of the proceeds of this tax revenue remaining after the calculations
18 and deposits made pursuant to section 901(2) of this act to the state
19 treasurer must be deposited in the public works assistance account
20 created in RCW 43.155.050. Except as otherwise provided in this
21 section, an amount equal to one and six-tenths percent of the
22 proceeds of this tax revenue remaining after the calculations and
23 deposits made pursuant to section 901(2) of this act to the state
24 treasurer must be deposited in the city-county assistance account
25 created in RCW 43.08.290.

26 **Subpart B**

27 **Real Estate Excise Tax on Foreclosures**

28 **Sec. 402.** RCW 82.45.010 and 2014 c 58 s 24 are each amended to
29 read as follows:

30 (1) As used in this chapter, the term "sale" has its ordinary
31 meaning and includes any conveyance, grant, assignment, quitclaim, or
32 transfer of the ownership of or title to real property, including
33 standing timber, or any estate or interest therein for a valuable
34 consideration, and any contract for such conveyance, grant,
35 assignment, quitclaim, or transfer, and any lease with an option to
36 purchase real property, including standing timber, or any estate or
37 interest therein or other contract under which possession of the
38 property is given to the purchaser, or any other person at the

1 purchaser's direction, and title to the property is retained by the
2 vendor as security for the payment of the purchase price. The term
3 also includes the grant, assignment, quitclaim, sale, or transfer of
4 improvements constructed upon leased land.

5 (2)(a) The term "sale" also includes the transfer or acquisition
6 within any twelve-month period of a controlling interest in any
7 entity with an interest in real property located in this state for a
8 valuable consideration.

9 (b) For the sole purpose of determining whether, pursuant to the
10 exercise of an option, a controlling interest was transferred or
11 acquired within a twelve-month period, the date that the option
12 agreement was executed is the date on which the transfer or
13 acquisition of the controlling interest is deemed to occur. For all
14 other purposes under this chapter, the date upon which the option is
15 exercised is the date of the transfer or acquisition of the
16 controlling interest.

17 (c) For purposes of this subsection, all acquisitions of persons
18 acting in concert must be aggregated for purposes of determining
19 whether a transfer or acquisition of a controlling interest has taken
20 place. The department must adopt standards by rule to determine when
21 persons are acting in concert. In adopting a rule for this purpose,
22 the department must consider the following:

23 (i) Persons must be treated as acting in concert when they have a
24 relationship with each other such that one person influences or
25 controls the actions of another through common ownership; and

26 (ii) When persons are not commonly owned or controlled, they must
27 be treated as acting in concert only when the unity with which the
28 purchasers have negotiated and will consummate the transfer of
29 ownership interests supports a finding that they are acting as a
30 single entity. If the acquisitions are completely independent, with
31 each purchaser buying without regard to the identity of the other
32 purchasers, then the acquisitions are considered separate
33 acquisitions.

34 (3) The term "sale" does not include:

35 (a) A transfer by gift, devise, or inheritance.

36 (b) A transfer by transfer on death deed, to the extent that it
37 is not in satisfaction of a contractual obligation of the decedent
38 owed to the recipient of the property.

39 (c) A transfer of any leasehold interest other than of the type
40 mentioned above.

1 (d) A cancellation or forfeiture of a vendee's interest in a
2 contract for the sale of real property, whether or not such contract
3 contains a forfeiture clause, or deed in lieu of foreclosure of (~~a~~
4 ~~mortgage~~) either a mortgage or deed of trust, except to the extent
5 of any additional consideration provided to the grantor.

6 (e) The partition of property by tenants in common by agreement
7 or as the result of a court decree.

8 (f) The assignment of property or interest in property from one
9 spouse or one domestic partner to the other spouse or other domestic
10 partner in accordance with the terms of a decree of dissolution of
11 marriage or state registered domestic partnership or in fulfillment
12 of a property settlement agreement.

13 (g) The assignment or other transfer of a vendor's interest in a
14 contract for the sale of real property, even though accompanied by a
15 conveyance of the vendor's interest in the real property involved.

16 (h) Transfers by appropriation or decree in condemnation
17 proceedings brought by the United States, the state or any political
18 subdivision thereof, or a municipal corporation.

19 (i) A mortgage, deed of trust, or other transfer of an interest
20 in real property merely to secure a debt, or the assignment,
21 reconveyance, or release thereof.

22 (j) Any transfer or conveyance made pursuant to a foreclosure of
23 a mortgage or deed of trust or an order of sale by the court in any
24 mortgage, deed of trust, or lien foreclosure proceeding or upon
25 execution of a judgment(~~(, or deed in lieu of foreclosure to satisfy~~
26 ~~a mortgage or deed of trust))~~ pursuant to chapter 6.17 RCW, but only
27 when:

28 (i) The transfer or conveyance is to other than the mortgagee,
29 beneficiary of the deed of trust, lienholder, or judgment creditor,
30 and the selling price exceeds the amount of the lien, security
31 interest, or judgment that is the subject of the foreclosure or
32 execution; or

33 (ii) The transfer or conveyance is to the United States, this
34 state, or any political subdivision thereof, or a municipal
35 corporation of this state.

36 (k) A conveyance to the federal housing administration or
37 veterans administration by an authorized mortgagee made pursuant to a
38 contract of insurance or guaranty with the federal housing
39 administration or veterans administration.

1 (l) A transfer in compliance with the terms of any lease or
2 contract upon which the tax as imposed by this chapter has been paid
3 or where the lease or contract was entered into prior to the date
4 this tax was first imposed.

5 (m) The sale of any grave or lot in an established cemetery.

6 (n) A sale by the United States, this state or any political
7 subdivision thereof, or a municipal corporation of this state.

8 (o) A sale to a regional transit authority or public corporation
9 under RCW 81.112.320 under a sale/leaseback agreement under RCW
10 81.112.300.

11 (p) A transfer of real property, however effected, if it consists
12 of a mere change in identity or form of ownership of an entity where
13 there is no change in the beneficial ownership. These include
14 transfers to a corporation or partnership which is wholly owned by
15 the transferor and/or the transferor's spouse or domestic partner or
16 children of the transferor or the transferor's spouse or domestic
17 partner. However, if thereafter such transferee corporation or
18 partnership voluntarily transfers such real property, or such
19 transferor, spouse or domestic partner, or children of the transferor
20 or the transferor's spouse or domestic partner voluntarily transfer
21 stock in the transferee corporation or interest in the transferee
22 partnership capital, as the case may be, to other than (i) the
23 transferor and/or the transferor's spouse or domestic partner or
24 children of the transferor or the transferor's spouse or domestic
25 partner, (ii) a trust having the transferor and/or the transferor's
26 spouse or domestic partner or children of the transferor or the
27 transferor's spouse or domestic partner as the only beneficiaries at
28 the time of the transfer to the trust, or (iii) a corporation or
29 partnership wholly owned by the original transferor and/or the
30 transferor's spouse or domestic partner or children of the transferor
31 or the transferor's spouse or domestic partner, within three years of
32 the original transfer to which this exemption applies, and the tax on
33 the subsequent transfer has not been paid within sixty days of
34 becoming due, excise taxes become due and payable on the original
35 transfer as otherwise provided by law.

36 (q)(i) A transfer that for federal income tax purposes does not
37 involve the recognition of gain or loss for entity formation,
38 liquidation or dissolution, and reorganization, including but not
39 limited to nonrecognition of gain or loss because of application of

1 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal
2 revenue code of 1986, as amended.

3 (ii) However, the transfer described in (q)(i) of this subsection
4 cannot be preceded or followed within a twelve-month period by
5 another transfer or series of transfers, that, when combined with the
6 otherwise exempt transfer or transfers described in (q)(i) of this
7 subsection, results in the transfer of a controlling interest in the
8 entity for valuable consideration, and in which one or more persons
9 previously holding a controlling interest in the entity receive cash
10 or property in exchange for any interest the person or persons acting
11 in concert hold in the entity. This subsection (3) (q)(ii) does not
12 apply to that part of the transfer involving property received that
13 is the real property interest that the person or persons originally
14 contributed to the entity or when one or more persons who did not
15 contribute real property or belong to the entity at a time when real
16 property was purchased receive cash or personal property in exchange
17 for that person or persons' interest in the entity. The real estate
18 excise tax under this subsection (3)(q)(ii) is imposed upon the
19 person or persons who previously held a controlling interest in the
20 entity.

21 (r) A qualified sale of a manufactured/mobile home community, as
22 defined in RCW 59.20.030, that takes place on or after June 12, 2008,
23 but before December 31, 2018.

24 **Sec. 403.** RCW 82.45.080 and 2010 1st sp.s. c 23 s 210 are each
25 amended to read as follows:

26 (1) Except as otherwise provided in this chapter, the tax levied
27 under this chapter is the obligation of the seller and the department
28 may, at the department's option, enforce the obligation through an
29 action of debt against the seller or the department may proceed in
30 the manner prescribed for the foreclosure of mortgages. The
31 department's use of one course of enforcement is not an election not
32 to pursue the other.

33 (2) When a transfer or conveyance made pursuant to a judicial or
34 nonjudicial foreclosure of a mortgage, deed of trust, lien, or
35 enforcement of a judgment is subject to tax under this chapter, and
36 notwithstanding any other provisions of law, the tax levied under
37 this chapter is the obligation of the transferee or grantee, and
38 provisions of this chapter applicable to the seller apply to the
39 transferee or grantee. The department may enforce the obligation

1 against the transferee or grantee as provided in subsection (1) of
2 this section.

3 (3) For purposes of this section and notwithstanding any other
4 provisions of law, the seller is the parent corporation of a wholly
5 owned subsidiary, when such subsidiary is the transferor to a third-
6 party transferee and the subsidiary is dissolved before paying the
7 tax imposed under this chapter.

8 **Part V**

9 **Requiring Local Governments that Issue Building Permits to Supply**
10 **Subcontractor Information to the Department of Revenue**

11 **Sec. 501.** RCW 18.27.110 and 1997 c 314 s 11 are each amended to
12 read as follows:

13 (1)(a) No city, town or county (~~shall~~) may issue a construction
14 building permit for work which is to be done by any contractor
15 required to be registered under this chapter without verification
16 (~~that such contractor is currently registered as required by law.~~
17 ~~When such verification is made, nothing contained in this section is~~
18 ~~intended to be, nor shall be construed to create, or form the basis~~
19 ~~for any liability under this chapter on the part of any city, town or~~
20 ~~county, or its officers, employees or agents. However, failure to~~
21 ~~verify the contractor registration number results in liability to the~~
22 ~~city, town, or county to a penalty to be imposed according to RCW~~
23 ~~18.27.100(7)(a)) of the contractor's unified business identifier
24 number and that such contractor is currently registered as required
25 by law. Information regarding the contractor must be obtained at the
26 time the building permit is applied for. The requirement in this
27 subsection (1)(a) to verify a contractor's registration and unified
28 business identifier number does not apply with respect to
29 subcontractors.~~

30 (b)(i) When a general contractor, including a property owner
31 acting as a general contractor, requests a final inspection, the
32 city, town, or county that issued the building permit must request
33 from the general contractor the name, unified business identifier
34 number, and contractor registration number of any subcontractors that
35 performed any portion of the work under the building permit. The
36 department of revenue must develop a form for this purpose and make
37 it available, at no cost, to the cities, towns, and counties.

1 (ii) Cities, towns, and counties may charge general contractors
2 and property owners acting as a general contractor a fee to defray
3 the cost of collecting the information required in this subsection
4 (1)(b) and providing the information to the department of revenue as
5 required in (f) of this subsection (1).

6 (iii) This subsection (1)(b) only applies with respect to
7 construction on single-family dwellings and multifamily residential
8 buildings as defined in RCW 19.27.015.

9 (c) A general contractor or building permit applicant must
10 provide a city, town, or county with complete and accurate
11 information about the contractor and any subcontractors as requested
12 by the city, town, or county pursuant to (a) and (b) of this
13 subsection (1).

14 (d) When the verification is made and the information requested,
15 as required in (a) and (b) of this subsection (1), nothing contained
16 in this section is intended to be, nor may be construed to create, or
17 form the basis for any liability under this chapter on the part of
18 any city, town, or county, or its officers, employees, or agents.

19 (e) However, failure to comply with the provisions of (a) of this
20 subsection (1) results in liability to the city, town, or county to a
21 penalty to be imposed according to RCW 18.27.100(8)(a). The state
22 auditor must monitor compliance with the provisions of (b) of this
23 subsection (1).

24 (f) Cities, towns, and counties must furnish the information
25 collected pursuant to (a) and (b) of this subsection (1) to the
26 department of revenue monthly at no charge to the department. The
27 information must be provided in a format requested by the department.
28 The department of revenue must, upon request, share such information
29 with the department of labor and industries and the employment
30 security department.

31 (2) At the time of issuing the building permit, all cities,
32 towns, or counties are responsible for:

33 (a) Printing the contractor registration number on the building
34 permit; and

35 (b) Providing a written notice to the building permit applicant
36 informing them of contractor registration laws and the potential risk
37 and monetary liability to the homeowner for using an unregistered
38 contractor.

39 (3) If a building permit is obtained by an applicant or
40 contractor who falsifies information to obtain an exemption provided

1 under RCW 18.27.090 or who violates subsection (1)(c) of this section
2 by providing materially incomplete or inaccurate information to a
3 city, town, or county, the building permit ((shall)) must be
4 forfeited.

5 **Sec. 502.** RCW 18.27.200 and 2007 c 436 s 9 are each amended to
6 read as follows:

7 (1) It is a violation of this chapter and an infraction for any
8 contractor to:

9 (a) Advertise, offer to do work, submit a bid, or perform any
10 work as a contractor without being registered as required by this
11 chapter;

12 (b) Advertise, offer to do work, submit a bid, or perform any
13 work as a contractor when the contractor's registration is suspended
14 or revoked;

15 (c) Transfer a valid registration to an unregistered contractor
16 or allow an unregistered contractor to work under a registration
17 issued to another contractor;

18 (d) If the contractor is a contractor as defined in RCW
19 18.106.010, violate RCW 18.106.320; ((~~or~~))

20 (e) Subcontract to, or use, an unregistered contractor; or

21 (f) Provide materially incomplete or inaccurate information to a
22 city, town, or county pursuant to a request for information as
23 required by RCW 18.27.110.

24 (2) Each day that a contractor works without being registered as
25 required by this chapter, works while the contractor's registration
26 is suspended or revoked, or works under a registration issued to
27 another contractor is a separate infraction. Each worksite at which a
28 contractor works without being registered as required by this
29 chapter, works while the contractor's registration is suspended or
30 revoked, or works under a registration issued to another contractor
31 is a separate infraction.

32 **Part VI**
33 **Remote Sellers, Referrers, and Marketplace Facilitators**
34

35 **Subpart A**
36 **Findings and Intent**

1 state pursuant to this chapter and chapters 82.12 and 82.32 RCW or
2 comply with section 605 of this act.

3 (b) For marketplace facilitators, the election provided in (a) of
4 this subsection (1) applies only with respect to:

5 (i) Retail sales through the marketplace facilitator's
6 marketplace by or on behalf of marketplace sellers who do not have a
7 physical presence in this state; and

8 (ii) A marketplace facilitator's own retail sales, if the
9 marketplace facilitator does not have a physical presence in this
10 state.

11 (c) For referrers, the election provided in (a) of this
12 subsection (1) applies only with respect to:

13 (i) Retail sales directly resulting from a referral of the
14 purchaser to a marketplace seller who does not have a physical
15 presence in this state; and

16 (ii) A referrer's own retail sales, if the referrer does not have
17 a physical presence in this state.

18 (d) An election under (a) of this subsection (1) to collect
19 retail sales or use tax is binding on the remote seller, referrer, or
20 marketplace facilitator until January 1st of the calendar year that
21 is at least twelve consecutive months after the remote seller,
22 referrer, or marketplace facilitator began collecting retail sales or
23 use tax under such election. A remote seller, referrer, or
24 marketplace facilitator who has made an election under this
25 subsection to collect retail sales or use tax may change its election
26 and comply with section 605 of this act by providing written notice
27 to the department in a form and manner required by the department.
28 Such an election change may take effect only on the first day of the
29 calendar year that is at least thirty days following the date that
30 the department received written notice from the remote seller,
31 referrer, or marketplace facilitator of its change in election.

32 (e)(i) Remote sellers, referrers, and marketplace facilitators
33 complying with section 605 of this act may change their election
34 under this subsection (1) at any time by collecting and remitting
35 retail sales or use taxes under this chapter or chapter 82.12 RCW on
36 taxable retail sales sourced to this state. Such an election is
37 binding as provided in (d) of this subsection (1).

38 (ii) Remote sellers, referrers, and marketplace facilitators
39 electing for the first time to collect retail sales or use tax must
40 begin collecting state and local retail sales or use taxes on taxable

1 retail sales sourced to this state beginning on the first day of the
2 calendar month that is at least thirty days from the date that the
3 remote seller, referrer, or marketplace facilitator met either
4 threshold described in subsection (2) of this section.

5 (f) If the department discovers that any remote seller, referrer,
6 or marketplace facilitator required to make an election under this
7 subsection (1) is not registered with the department and collecting
8 retail sales or use tax, the remote seller, referrer, or marketplace
9 facilitator is conclusively presumed to have elected to comply with
10 the notice and reporting requirements of section 605 of this act.

11 (2)(a) A remote seller or marketplace facilitator is subject to
12 subsection (1) of this section if, during the current or immediately
13 preceding calendar year, the gross receipts of the remote seller or
14 marketplace facilitator from retail sales sourced to this state under
15 RCW 82.32.730 are at least ten thousand dollars.

16 (b) A referrer is subject to subsection (1) of this section if,
17 during the current or immediately preceding calendar year, the gross
18 income of the business received from the referrer's referral services
19 apportioned to Washington under RCW 82.04.462, whether or not subject
20 to tax under chapter 82.04 RCW, and from retail sales sourced to this
21 state under RCW 82.32.730, if any, is at least ten thousand dollars.

22 (3) This section is subject to the provisions of section 613 of
23 this act.

24 (4) For the purposes of this section, "marketplace facilitator,"
25 "referrer," and "remote seller" have the same meaning as provided in
26 section 604 of this act.

27 NEW SECTION. **Sec. 603.** A new section is added to chapter 82.08
28 RCW to be codified between section 602 of this act and RCW 82.08.054
29 to read as follows:

30 (1) For purposes of this chapter and chapter 82.12 RCW, a
31 marketplace facilitator or referrer is deemed to be an agent of any
32 marketplace seller making retail sales through the marketplace
33 facilitator's physical or electronic marketplace or directly
34 resulting from a referral of the purchaser by the referrer.

35 (2) A marketplace facilitator or referrer is relieved of
36 liability under this chapter and chapter 82.12 RCW for failure to
37 collect the correct amount of tax to the extent that the marketplace
38 facilitator or referrer can show to the department's satisfaction
39 that the error was due to incorrect information given to the

1 marketplace facilitator or referrer by the marketplace seller, unless
2 the marketplace facilitator, or referrer, and marketplace seller are
3 affiliated persons. Where the marketplace facilitator or referrer is
4 relieved of liability under this subsection (2), the marketplace
5 seller is solely liable for the amount of uncollected tax due.

6 (3)(a) Subject to the limits in (b) and (c) of this subsection
7 (3), a marketplace facilitator or referrer is relieved of liability
8 under this chapter and chapter 82.12 RCW for the failure to collect
9 tax on taxable retail sales to the extent that the marketplace
10 facilitator or referrer can show to the department's satisfaction
11 that:

12 (i) The taxable retail sale was made through the marketplace
13 facilitator's marketplace or directly resulting from a referral of
14 the purchaser by the referrer;

15 (ii) The taxable retail sale was made solely as the agent of a
16 marketplace seller, and the marketplace facilitator, or referrer, and
17 marketplace seller are not affiliated persons; and

18 (iii) The failure to collect sales tax was not due to an error in
19 sourcing the sale under RCW 82.32.730.

20 (b) Liability relief for a marketplace facilitator under (a) of
21 this subsection (3) for a calendar year is limited as follows:

22 (i) For calendar year 2018, the liability relief may not exceed
23 ten percent of the total tax due under this chapter and chapter 82.12
24 RCW on taxable retail sales by the marketplace facilitator as agent
25 of a marketplace seller and sourced to this state under RCW 82.32.730
26 during the same calendar year.

27 (ii) For calendar years 2019, 2020, 2021, 2022, and 2023, the
28 liability relief may not exceed five percent of the total tax due
29 under this chapter and chapter 82.12 RCW on taxable retail sales by
30 the marketplace facilitator as agent of a marketplace seller and
31 sourced to this state under RCW 82.32.730 during the same calendar
32 year.

33 (iii) Beginning in calendar year 2024, the liability relief may
34 not exceed three percent of the total tax due under this chapter and
35 chapter 82.12 RCW on taxable retail sales by the marketplace
36 facilitator as agent of a marketplace seller and sourced to this
37 state under RCW 82.32.730 during the same calendar year.

38 (c) Liability relief for a referrer under (a) of this subsection
39 (3) for a calendar year is limited as follows:

1 (i) For calendar year 2018, the liability relief may not exceed
2 ten percent of the total tax due under this chapter and chapter 82.12
3 RCW on taxable retail sales directly resulting from a referral of the
4 purchaser to the marketplace seller by the referrer and sourced to
5 this state under RCW 82.32.730 during the same calendar year.

6 (ii) For calendar years 2019, 2020, 2021, 2022, and 2023, the
7 liability relief may not exceed five percent of the total tax due
8 under this chapter and chapter 82.12 RCW on taxable retail sales
9 directly resulting from a referral of the purchaser to the
10 marketplace seller by the referrer and sourced to this state under
11 RCW 82.32.730 during the same calendar year.

12 (iii) Beginning in calendar year 2024, the liability relief may
13 not exceed three percent of the total tax due under this chapter and
14 chapter 82.12 RCW on taxable retail sales directly resulting from a
15 referral of the purchaser to the marketplace seller by the referrer
16 and sourced to this state under RCW 82.32.730 during the same
17 calendar year.

18 (d) Where the marketplace facilitator or referrer is relieved of
19 liability under this subsection (3), the marketplace seller is also
20 relieved of liability for the amount of uncollected tax due, subject
21 to the limitations in subsection (4) of this section.

22 (4) A marketplace seller is relieved of its obligation to collect
23 the taxes imposed under this chapter and chapter 82.12 RCW on all
24 taxable retail sales through a marketplace operated by a marketplace
25 facilitator or directly resulting from a referral of the purchaser to
26 the marketplace seller by the referrer if the marketplace seller has
27 obtained documentation from the marketplace facilitator or referrer
28 indicating that the marketplace facilitator or referrer is registered
29 with the department and will collect all applicable taxes due under
30 this chapter and chapter 82.12 RCW on all taxable retail sales made
31 on behalf of the marketplace seller through the marketplace operated
32 by the marketplace facilitator or taxable retail sales directly
33 resulting from a referral of the purchaser to the marketplace seller
34 by the referrer. The documentation required by this subsection (4)
35 must be provided in a form and manner prescribed by or acceptable to
36 the department. This subsection (4) does not relieve a marketplace
37 seller from liability for uncollected taxes due under this chapter or
38 chapter 82.12 RCW resulting from a marketplace facilitator's or
39 referrer's failure to collect the proper amount of tax due when the

1 error was due to incorrect information given to the marketplace
2 facilitator or referrer by the marketplace seller.

3 (5) A marketplace seller that is also a remote seller subject to
4 section 602(1) of this act is relieved of its obligation to collect
5 sales or use taxes imposed under this chapter and chapter 82.12 RCW
6 on all taxable retail sales through a marketplace operated by a
7 marketplace facilitator that provides the marketplace seller with
8 written confirmation that the marketplace facilitator has elected to
9 comply with the notice and reporting requirements of section 605 of
10 this act in lieu of collecting sales and use taxes.

11 (6) No class action may be brought against a marketplace
12 facilitator or referrer in any court of this state on behalf of
13 purchasers arising from or in any way related to an overpayment of
14 sales or use tax collected by the marketplace facilitator or
15 referrer, regardless of whether that claim is characterized as a tax
16 refund claim. Nothing in this subsection affects a purchaser's right
17 to seek a refund from the department as provided under chapter 82.32
18 RCW.

19 (7) Nothing in this section affects the obligation of any
20 purchaser to remit sales or use tax as to any applicable taxable
21 transaction in which the seller or the seller's agent does not
22 collect and remit sales tax.

23 (8) This section is subject to the provisions of section 613 of
24 this act.

25 (9) The definitions in section 604 of this act apply to this
26 section.

27 NEW SECTION. **Sec. 604.** The definitions in this section apply
28 throughout this chapter unless the context clearly requires
29 otherwise.

30 (1) "Affiliated person" means a person that, with respect to
31 another person:

32 (a) Has an ownership interest of more than five percent, whether
33 direct or indirect, in the other person; or

34 (b) Is related to the other person because a third person, or
35 group of third persons who are affiliated persons with respect to
36 each other, holds an ownership interest of more than five percent,
37 whether direct or indirect, in the related persons.

38 (2) "Consumer" has the same meaning as provided in chapters
39 82.04, 82.08, and 82.12 RCW.

1 (3) "Marketplace facilitator" means a person that contracts with
2 sellers to facilitate for consideration, regardless of whether
3 deducted as fees from the transaction, the sale of the seller's
4 products through a physical or electronic marketplace operated by the
5 person, and engages:

6 (a) Directly or indirectly, through one or more affiliated
7 persons in any of the following:

8 (i) Transmitting or otherwise communicating the offer or
9 acceptance between the buyer and seller;

10 (ii) Owning or operating the infrastructure, electronic or
11 physical, or technology that brings buyers and sellers together;

12 (iii) Providing a virtual currency that buyers are allowed or
13 required to use to purchase products from the seller; or

14 (iv) Software development or research and development activities
15 related to any of the activities described in (b) of this subsection
16 (3), if such activities are directly related to a physical or
17 electronic marketplace operated by the person or an affiliated
18 person; and

19 (b) In any of the following activities with respect to the
20 seller's products:

21 (i) Payment processing services;

22 (ii) Fulfillment or storage services;

23 (iii) Listing products for sale;

24 (iv) Setting prices;

25 (v) Branding sales as those of the marketplace facilitator;

26 (vi) Order taking;

27 (vii) Advertising or promotion; or

28 (viii) Providing customer service or accepting or assisting with
29 returns or exchanges.

30 (4) "Marketplace seller" means a seller that makes retail sales
31 through any physical or electronic marketplaces operated by a
32 marketplace facilitator or directly resulting from a referral by a
33 referrer, regardless of whether the seller is required to be
34 registered with the department as provided in RCW 82.32.030.

35 (5) "Platform" means an electronic or physical medium, including
36 a web site or catalog, operated by a referrer.

37 (6) "Product" has the same meaning as provided in RCW 82.32.023.

38 (7) "Purchaser" means any consumer who purchases or leases a
39 product sourced to this state under RCW 82.32.730.

1 (8) "Referral" means the transfer by a referrer of a potential
2 customer to a marketplace seller who advertises or lists products for
3 sale on the referrer's platform.

4 (9) "Referrer" means a person who contracts or otherwise agrees
5 with a seller to list or advertise for sale one or more items in any
6 medium, including a web site or catalog; receives a commission, fee,
7 or other consideration from the seller for the listing or
8 advertisement; transfers, via telephone, internet link, or other
9 means, a purchaser to a seller or an affiliated person to complete
10 the sale; and does not collect receipts from the purchasers for the
11 transaction.

12 (10) "Remote seller" means any seller, other than a marketplace
13 facilitator or referrer, who does not have a physical presence in
14 this state and makes retail sales to purchasers.

15 (11) "Retail sale" and "sale" have the same meaning as provided
16 in chapter 82.04 RCW.

17 (12) "Seller" has the same meaning as in RCW 82.08.010 and
18 includes marketplace facilitators, whether making sales in their own
19 right or on behalf of marketplace sellers, and referrers.

20 NEW SECTION. **Sec. 605.** (1) Except as otherwise provided in
21 subsection (5) of this section, a seller that does not collect the
22 tax imposed under chapter 82.08 or 82.12 RCW on a taxable retail sale
23 must comply with the applicable notice and reporting requirements of
24 this section. For taxable retail sales made through a marketplace
25 facilitator, or other agent, the marketplace facilitator, or other
26 agent must comply with the notice and reporting requirements of this
27 section, and the principal is not subject to the notice and reporting
28 requirements of this section with respect to those sales. If the
29 referrer makes an election to comply with the applicable notice and
30 reporting requirements of this section, marketplace sellers to whom a
31 referral is made by the referrer remain subject to the applicable
32 notice and reporting requirements under this section for their sales
33 unless the marketplace sellers collect the tax imposed under chapter
34 82.08 or 82.12 RCW on taxable retail sales sourced to this state
35 under RCW 82.32.730.

36 (2)(a) A seller, other than a referrer acting in its capacity as
37 a referrer, subject to the notice and reporting requirements of this
38 section must:

1 (i) Post a conspicuous notice on its marketplace, platform, web
2 site, catalog, or any other similar medium that informs Washington
3 purchasers that:

4 (A) Sales or use tax is due on certain purchases;

5 (B) Washington requires the purchaser to file a use tax return;
6 and

7 (C) The notice is provided under the requirements of this
8 section; and

9 (ii) Provide a notice to each consumer at the time of each retail
10 sale. The notice under this subsection (2)(a)(ii) must include the
11 following information:

12 (A) A statement that neither sales nor use tax is being collected
13 or remitted upon the sale;

14 (B) A statement that the consumer may be required to remit sales
15 or use tax directly to the department; and

16 (C) Instructions for obtaining additional information from the
17 department regarding whether and how to remit the sales or use tax to
18 the department.

19 (b) The notice under (a)(ii) of this subsection (2) must be
20 prominently displayed on all invoices and order forms including,
21 where applicable, electronic and catalog invoices and order forms,
22 and upon each sales receipt or similar document provided to the
23 purchaser, whether in paper or electronic form. No indication may be
24 made that sales or use tax is not imposed upon the transaction,
25 unless:

26 (i) Such indication is followed immediately with the notice
27 required by (a)(ii) of this subsection (2); or

28 (ii) The transaction with respect to which the indication is
29 given is exempt from sales and use tax pursuant to law.

30 (3) A referrer subject to the notice and reporting requirements
31 of this section must:

32 (a) Post a conspicuous notice on its platform that informs
33 Washington purchasers:

34 (i) That sales or use tax is due on certain purchases;

35 (ii) That the seller may or may not collect and remit retail
36 sales tax on a purchase;

37 (iii) That Washington requires the purchaser to file a use tax
38 return if retail sales tax is not assessed at the time of a taxable
39 sale by the seller;

1 (iv) That the notice is provided under the requirements of this
2 section;

3 (v) Of the instructions for obtaining additional information from
4 the department regarding whether and how to remit the sales or use
5 tax to the department; and

6 (vi) That if the seller to whom the purchaser is referred does
7 not collect retail sales tax on a subsequent purchase by the
8 purchaser, the seller may be required to provide information to the
9 purchaser and the department about the purchaser's potential sales or
10 use tax liability.

11 (b) The notice under (a) of this subsection (3) must be
12 prominently displayed on the platform and may include pop-up boxes or
13 notification by other means that appear when the referrer transfers a
14 purchaser to a marketplace seller or an affiliated person to complete
15 the sale.

16 (4)(a) A seller, other than a referrer acting in its capacity as
17 a referrer, subject to the notice and reporting requirements of
18 subsection (2) of this section must, no later than January 31st of
19 each year, provide a report to each consumer for whom the seller was
20 required to provide a notice under subsection (2)(a)(ii) of this
21 section.

22 (b) The report under this subsection (4) must include:

23 (i) A statement that the seller did not collect sales or use tax
24 on the consumer's transactions with the seller and that the consumer
25 may be required to remit such tax directly to the department;

26 (ii) A list, by date, generally indicating the type of product
27 purchased or leased during the immediately preceding calendar year by
28 the consumer from the seller, sourced to this state under RCW
29 82.32.730, and the price of each product;

30 (iii) Instructions for obtaining additional information from the
31 department regarding whether and how to remit the sales or use tax to
32 the department;

33 (iv) A statement that the seller is required to submit a report
34 to the department pursuant to subsection (6) of this section stating
35 the total dollar amount of the consumer's purchases from the seller;
36 and

37 (v) Any information as the department may reasonably require.

38 (c)(i) The report required under this subsection (4) must be sent
39 to the consumer's billing address or, if unknown, the consumer's
40 shipping address, by first-class mail, in an envelope marked

1 prominently with words indicating important tax information is
2 enclosed.

3 (ii) If no billing or shipping address is known, the report must
4 be sent electronically to the consumer's last known email address
5 with a subject heading indicating important tax information is
6 enclosed.

7 (5)(a) A referrer subject to the notice requirements under
8 subsection (3) of this section must, no later than January 31st of
9 each year, provide notice to each marketplace seller to whom the
10 referrer transferred a potential purchaser located in Washington
11 during the previous calendar year.

12 (b) The notice under this subsection (5) must include:

13 (i) A statement that Washington imposes a sales or use tax on
14 retail sales;

15 (ii) A statement that a seller, meeting the threshold in section
16 602(2) of this act, is required to either collect and remit retail
17 sales or use tax on all taxable retail sales sourced to this state
18 under RCW 82.32.730 or to comply with this section; and

19 (iii) Instructions for obtaining additional information from the
20 department.

21 (c) By January 31st of each year, a referrer required to provide
22 the notice under this subsection must provide the department with:

23 (i) A list of sellers who received the referrer's notice under
24 this subsection. The information must be provided electronically in a
25 form and manner required by the department.

26 (ii) An affidavit signed under penalty of perjury from an officer
27 of the referrer affirming that the referrer made reasonable efforts
28 to comply with the applicable sales and use tax notice and reporting
29 requirements of this section.

30 (6)(a) A seller, other than a referrer acting in its capacity as
31 a referrer, subject to the notice and reporting requirements of this
32 section must, no later than January 31st of each year, file a report
33 with the department.

34 (b) The report under this subsection (6) must include, with
35 respect to each consumer to whom the seller is required to provide a
36 report under subsection (4) of this section by January 31st of the
37 current calendar year:

38 (i) The consumer's name;

39 (ii) The billing address and, if different, the last known
40 mailing address;

1 (iii) The shipping address for each product sold or leased to
2 such consumer for delivery to a location in this state during the
3 immediately preceding calendar year; and

4 (iv) The total dollar amount of all such purchases by such
5 consumer.

6 (c) The report under this subsection (6) must also include an
7 affidavit signed under penalty of perjury from an officer of the
8 seller affirming that the seller made reasonable efforts to comply
9 with the applicable sales and use tax notice and reporting
10 requirements in this section.

11 (d) Except for the affidavit, the report under this subsection
12 (6) must be filed electronically in a form and manner required by the
13 department.

14 (7) A seller who is registered with the department to collect and
15 remit retail sales and use tax, and who makes a reasonable effort to
16 comply with the requirements of RCW 82.08.050 and 82.12.040, is not
17 required to provide notice or file reports under this section.

18 (8) Every seller subject to this chapter must keep and preserve,
19 for a period of five years, suitable records as may be necessary for
20 the department to verify the seller's compliance with this chapter.
21 All of the seller's books, records, and invoices must be open for
22 examination at any reasonable time by the department. The department
23 may require the attendance of any officer of the seller or any
24 employee of the seller having knowledge pertinent to the department's
25 investigation of the seller's compliance with this chapter, at a time
26 and place fixed in a subpoena issued under RCW 82.32.117, and may
27 take the person's testimony under oath.

28 (9) In exercising discretion in enforcing the provisions of this
29 chapter, the department may take into consideration available
30 resources, whether the anticipated benefits from any potential
31 enforcement activities are likely to exceed the department's expected
32 enforcement costs, and any other factors the department deems
33 appropriate.

34 NEW SECTION. **Sec. 606.** (1)(a) The department must assess a
35 penalty against any seller, other than a referrer acting in its
36 capacity as a referrer, that fails to provide notice to consumers
37 pursuant to section 605(2)(a) of this act, in addition to any other
38 applicable penalties, in the amount of twenty thousand dollars. The
39 department may assess the penalty under this subsection only once per

1 calendar year, regardless of the number of notices a seller fails to
2 provide pursuant to section 605(2)(a) of this act during the calendar
3 year. The department may apply this penalty at any time during a
4 calendar year and no more frequently than annually.

5 (b) The department must assess a penalty against any referrer
6 that fails to provide notice to consumers pursuant to section 605(3)
7 of this act, in addition to any other applicable penalties, in the
8 amount of twenty thousand dollars. The department may apply this
9 penalty at any time during a calendar year and no more frequently
10 than annually.

11 (2)(a) The department must assess a penalty against a seller who
12 fails to provide a report as required by section 605(4) of this act,
13 in addition to any other applicable penalties, in the amount of eight
14 and one-half percent of gross receipts from sales sourced to this
15 state under RCW 82.32.730 for the calendar year for which the report
16 was required to be made.

17 (b) The department must assess a penalty against a referrer who
18 fails to provide the notice and list required by section 605(5) of
19 this act, in addition to any other applicable penalties, in the
20 amount of eight and one-half percent of the gross income of the
21 business received from the referrer's referral services apportioned
22 to Washington under RCW 82.04.460, whether or not subject to tax
23 under chapter 82.04 RCW, for the calendar year for which the notice
24 and list was required to be made. The department may assess the
25 penalty under this subsection only once per calendar year, regardless
26 of the number of failures to comply with section 605(5) of this act
27 during the calendar year.

28 (3) The department must assess a penalty against any seller,
29 other than a referrer acting in its capacity as a referrer, who fails
30 to provide a report to the department as required by section 605(6)
31 of this act, in addition to any other applicable penalties, in the
32 amount of twenty-five dollars multiplied by the number of consumers
33 that should have been included on such report, but not less than
34 twenty thousand dollars for any calendar year.

35 (4) The penalties imposed under subsections (1) through (3) of
36 this section are cumulative.

37 (5) No penalty may be imposed by the department under subsections
38 (1) through (4) of this section more than four years after the close
39 of the calendar year in which the notice or report giving rise to the
40 penalty was required to have been provided. This subsection (5) does

1 not apply to penalties reassessed under subsection (9) of this
2 section.

3 (6) When assessing a penalty under this section, the department
4 may use any reasonable estimation technique where necessary or
5 appropriate to determine the amount of any penalty.

6 (7) Interest accrues on the amount of the total penalty that has
7 been assessed under this section until the total penalty amount is
8 paid in full. Interest imposed under this section must be computed
9 and assessed as provided in RCW 82.32.050 as if the penalty imposed
10 under this subsection was a tax liability.

11 (8) The department must notify a seller by mail, or
12 electronically as provided in RCW 82.32.135, of the amount of any
13 penalty and interest due under this section. Amounts due under this
14 section must be paid in full within thirty days from the date of the
15 notice, or within such further time as the department may provide in
16 its sole discretion.

17 (9)(a)(i) A seller is entitled to a conditional waiver of
18 penalties and interest imposed under this section if the seller
19 enters into a written agreement with the department electing to
20 collect retail sales or use tax or fully comply with all applicable
21 notice and reporting requirements of this chapter, beginning by a
22 date acceptable to the department. An election to collect retail
23 sales or use tax must be for a period of at least twelve consecutive
24 months and is subject to the provisions of section 602(1)(d) of this
25 act.

26 (ii) The department may grant a waiver of penalties and interest
27 under this subsection (9)(a) for penalties and interest assessed for
28 a seller's failure to comply with the notice and reporting
29 requirements for one or more violations.

30 (iii) The department may not grant more than one request by a
31 seller for a waiver of penalties and interest under this subsection
32 (9)(a).

33 (iv) The department must reassess penalties and interest
34 conditionally waived under this subsection (9)(a) if the department
35 finds that, after the date that the seller agreed to fully comply
36 with the applicable notice and reporting requirements of this
37 chapter, the seller failed to:

38 (A) Provide notice under section 605(2)(a)(ii) of this act to at
39 least ninety-five percent of the consumers entitled to such notice in
40 any given calendar year or portion of the initial calendar year in

1 which the agreement required under this subsection was in effect if
2 the agreement was in effect for less than the entire calendar year;

3 (B) Timely provide the reports required under section 605(4) of
4 this act to all consumers who received notice from the seller under
5 section 605(2)(a)(ii) of this act during any calendar year, unless
6 the department finds that any such failure was due to circumstances
7 beyond the seller's control;

8 (C) Timely provide the reports required under section 605(6) of
9 this act during any calendar year, unless the department finds that
10 any such failure was due to circumstances beyond the seller's
11 control; or

12 (D) With respect to referrers, timely provide the notice required
13 under section 605(3) of this act and the notice and list required
14 under section 605(5) of this act during any calendar year, unless the
15 department finds that any such failure was due to circumstances
16 beyond the referrer's control.

17 (v) The department must reassess penalties and interest
18 conditionally waived under this subsection (9)(a) if the department
19 finds that, after the date that the seller elected to collect retail
20 sales or use tax, the seller failed to register with the department
21 and make a reasonable effort to comply with the requirements of RCW
22 82.08.050 and 82.12.040.

23 (vi) The department may not reassess penalties and interest
24 conditionally waived under this subsection (9)(a) more than four
25 calendar years following the calendar year in which the department
26 granted the conditional waiver under this subsection (9)(a).

27 (vii) The provisions of subsection (8) of this section apply to
28 penalties and interest reassessed under this subsection (9)(a). The
29 department may add additional interest on penalties reassessed under
30 this subsection (9)(a) only if the total amount of penalties
31 reassessed under this subsection (9)(a) is not paid in full by the
32 date due. Additional interest authorized under this subsection
33 (9)(a)(vii) applies beginning on the day immediately following the
34 day that the reassessed penalties were due and accrues until the
35 total amount of reassessed penalties are paid in full.

36 (b) The department must waive penalties and interest imposed
37 under this section if the department determines that the failure of
38 the seller to fully comply with the notice or reporting requirements
39 was due to circumstances beyond the seller's control.

1 (c) A request for a waiver of penalties and interest under this
2 subsection must be received by the department in writing and before
3 the penalties and interest for which a waiver is requested are due
4 pursuant to subsection (8) of this section. The department must deny
5 any request for a waiver of penalties and interest that does not
6 fully comply with the provisions of this subsection (9)(c).

7 NEW SECTION. **Sec. 607.** Chapter 82.32 RCW applies to the
8 administration of this chapter.

9 NEW SECTION. **Sec. 608.** Nothing in this chapter relieves sellers
10 or consumers who are subject to chapter 82.08 or 82.12 RCW from any
11 responsibilities imposed under those chapters. Nor does anything in
12 this chapter prevent the department from administering and enforcing
13 the taxes imposed under chapter 82.08 or 82.12 RCW with respect to
14 any seller or consumer who is subject to such taxes.

15 NEW SECTION. **Sec. 609.** A new section is added to chapter 82.32
16 RCW to be codified between RCW 82.32.045 and 82.32.050 to read as
17 follows:

18 (1) Except as otherwise provided in this section, taxes imposed
19 under chapter 82.08 or 82.12 RCW and payable by a consumer directly
20 to the department are due, on returns prescribed by the department,
21 by the earlier of March 1st of the calendar year immediately
22 following the calendar year in which the sale or use occurred or
23 within thirty days of the date of a notice from the department that
24 tax may be due.

25 (2) This section does not apply to the reporting and payment of
26 taxes imposed under chapters 82.08 and 82.12 RCW:

27 (a) On the retail sale or use of motor vehicles, vessels, or
28 aircraft; or

29 (b) By consumers who are engaged in business, unless the
30 department has relieved the consumer of the requirement to file
31 returns pursuant to RCW 82.32.045(4).

32 NEW SECTION. **Sec. 610.** A new section is added to chapter 82.32
33 RCW to read as follows:

34 (1) A remote seller, referrer, or marketplace facilitator that is
35 subject to section 602 of this act and is complying with the
36 requirements of chapters 82.08 and 82.12 RCW may only seek a recovery

1 of retail sales and use taxes, penalties, or interest from the
2 department by following the recovery procedures established under RCW
3 82.32.060. However, no claim may be granted on the basis that the
4 taxpayer lacked a physical presence in this state and complied with
5 the tax collection provisions of chapters 82.08 and 82.12 RCW
6 voluntarily.

7 (2) Neither the state nor any seller who elects under section 602
8 of this act to collect and remit retail sales or use tax is liable to
9 a purchaser who claims that the retail sales or use tax has been
10 over-collected because a provision of chapter . . . , Laws of 2017
11 (this act) is later deemed unlawful.

12 (3) Nothing in chapter . . . , Laws of 2017 (this act) affects the
13 obligation of any purchaser from this state to remit retail sales or
14 use tax as to any applicable taxable transaction in which the seller
15 does not collect and remit retail sales or use tax.

16 **Subpart C**
17 **Conforming Amendments**

18 **Sec. 611.** RCW 82.08.050 and 2010 c 112 s 8 are each amended to
19 read as follows:

20 (1) The tax imposed in this chapter must be paid by the buyer to
21 the seller. Each seller must collect from the buyer the full amount
22 of the tax payable in respect to each taxable sale in accordance with
23 the schedule of collections adopted by the department under the
24 provisions of RCW 82.08.060.

25 (2) The tax required by this chapter, to be collected by the
26 seller, is deemed to be held in trust by the seller until paid to the
27 department. Any seller who appropriates or converts the tax collected
28 to the seller's own use or to any use other than the payment of the
29 tax to the extent that the money required to be collected is not
30 available for payment on the due date as prescribed in this chapter
31 is guilty of a gross misdemeanor.

32 (3) Except as otherwise provided in this section, if any seller
33 fails to collect the tax imposed in this chapter or, having collected
34 the tax, fails to pay it to the department in the manner prescribed
35 by this chapter, whether such failure is the result of the seller's
36 own acts or the result of acts or conditions beyond the seller's
37 control, the seller is, nevertheless, personally liable to the state
38 for the amount of the tax.

1 (4) Sellers are not relieved from personal liability for the
2 amount of the tax unless they maintain proper records of exempt or
3 nontaxable transactions and provide them to the department when
4 requested.

5 (5) Sellers are not relieved from personal liability for the
6 amount of tax if they fraudulently fail to collect the tax or if they
7 solicit purchasers to participate in an unlawful claim of exemption.

8 (6) Sellers are not relieved from personal liability for the
9 amount of tax if they accept an exemption certificate from a
10 purchaser claiming an entity-based exemption if:

11 (a) The subject of the transaction sought to be covered by the
12 exemption certificate is actually received by the purchaser at a
13 location operated by the seller in Washington; and

14 (b) Washington provides an exemption certificate that clearly and
15 affirmatively indicates that the claimed exemption is not available
16 in Washington. Graying out exemption reason types on a uniform form
17 and posting it on the department's web site is a clear and
18 affirmative indication that the grayed out exemptions are not
19 available.

20 (7)(a) Sellers are relieved from personal liability for the
21 amount of tax if they obtain a fully completed exemption certificate
22 or capture the relevant data elements required under the streamlined
23 sales and use tax agreement within ninety days, or a longer period as
24 may be provided by rule by the department, subsequent to the date of
25 sale.

26 (b) If the seller has not obtained an exemption certificate or
27 all relevant data elements required under the streamlined sales and
28 use tax agreement within the period allowed subsequent to the date of
29 sale, the seller may, within one hundred twenty days, or a longer
30 period as may be provided by rule by the department, subsequent to a
31 request for substantiation by the department, either prove that the
32 transaction was not subject to tax by other means or obtain a fully
33 completed exemption certificate from the purchaser, taken in good
34 faith.

35 (c) Sellers are relieved from personal liability for the amount
36 of tax if they obtain a blanket exemption certificate for a purchaser
37 with which the seller has a recurring business relationship. The
38 department may not request from a seller renewal of blanket exemption
39 certificates or updates of exemption certificate information or data
40 elements if there is a recurring business relationship between the

1 buyer and seller. For purposes of this subsection (7)(c), a
2 "recurring business relationship" means at least one sale transaction
3 within a period of twelve consecutive months.

4 (d) Sellers are relieved from personal liability for the amount
5 of tax if they obtain a copy of a direct pay permit issued under RCW
6 82.32.087.

7 (8) The amount of tax, until paid by the buyer to the seller or
8 to the department, constitutes a debt from the buyer to the seller.
9 Any seller who fails or refuses to collect the tax as required with
10 intent to violate the provisions of this chapter or to gain some
11 advantage or benefit, either direct or indirect, and any buyer who
12 refuses to pay any tax due under this chapter is guilty of a
13 misdemeanor.

14 (9) Except as otherwise provided in this subsection, the tax
15 required by this chapter to be collected by the seller must be stated
16 separately from the selling price in any sales invoice or other
17 instrument of sale. On all retail sales through vending machines, the
18 tax need not be stated separately from the selling price or collected
19 separately from the buyer. Except as otherwise provided in this
20 subsection, for purposes of determining the tax due from the buyer to
21 the seller and from the seller to the department it must be
22 conclusively presumed that the selling price quoted in any price
23 list, sales document, contract or other agreement between the parties
24 does not include the tax imposed by this chapter. But if the seller
25 advertises the price as including the tax or that the seller is
26 paying the tax, the advertised price may not be considered the
27 selling price.

28 (10) Where a buyer has failed to pay to the seller the tax
29 imposed by this chapter and the seller has not paid the amount of the
30 tax to the department, the department may, in its discretion, proceed
31 directly against the buyer for collection of the tax. If the
32 department proceeds directly against the buyer for collection of the
33 tax as authorized in this subsection, the department may add a
34 penalty of ten percent of the unpaid tax to the amount of the tax due
35 for failure of the buyer to pay the tax to the seller, regardless of
36 when the tax may be collected by the department. In addition to the
37 penalty authorized in this subsection, all of the provisions of
38 chapter 82.32 RCW, including those relative to interest and
39 penalties, apply. For the sole purpose of applying the various
40 provisions of chapter 82.32 RCW, the twenty-fifth day of the month

1 following the tax period in which the purchase was made will be
2 considered as the due date of the tax.

3 ~~(11) ((Notwithstanding subsections (1) through (10) of this
4 section, any person making sales is not obligated to collect the tax
5 imposed by this chapter if:~~

6 ~~(a) The person's activities in this state, whether conducted
7 directly or through another person, are limited to:~~

8 ~~(i) The storage, dissemination, or display of advertising;~~

9 ~~(ii) The taking of orders; or~~

10 ~~(iii) The processing of payments; and~~

11 ~~(b) The activities are conducted electronically via a web site on
12 a server or other computer equipment located in Washington that is
13 not owned or operated by the person making sales into this state nor
14 owned or operated by an affiliated person. "Affiliated persons" has
15 the same meaning as provided in RCW 82.04.424.~~

16 ~~(12) Subsection (11) of this section expires when: (a) The United
17 States congress grants individual states the authority to impose
18 sales and use tax collection duties on remote sellers; or (b) it is
19 determined by a court of competent jurisdiction, in a judgment not
20 subject to review, that a state can impose sales and use tax
21 collection duties on remote sellers.~~

22 ~~(13) For purposes of this section:)) The definitions in this
23 subsection apply throughout this section unless the context clearly
24 requires otherwise.~~

25 (a) "Exemption certificate" means documentation furnished by a
26 buyer to a seller to claim an exemption from sales tax. An exemption
27 certificate includes a reseller permit or other documentation
28 authorized in RCW 82.04.470 furnished by a buyer to a seller to
29 substantiate a wholesale sale(~~(; and))~~).

30 (b) "Seller" includes a certified service provider, as defined in
31 RCW 82.32.020, acting as agent for the seller.

32 **Sec. 612.** RCW 82.12.040 and 2015 c 169 s 9 are each amended to
33 read as follows:

34 (1) Every person who ~~((maintains in this state a place of
35 business or a stock of goods, or engages in business activities
36 within this state))~~ is subject to a collection obligation under
37 chapter 82.08 RCW, except a person making a valid election to comply
38 with the notice and reporting provisions of section 605 of this act,
39 must obtain from the department a certificate of registration, and

1 must, at the time of making sales of tangible personal property,
2 digital goods, digital codes, digital automated services, extended
3 warranties, or sales of any service defined as a retail sale in RCW
4 82.04.050 (2) (a) or (g) or (6)((+b+)) (c), or making transfers of
5 either possession or title, or both, of tangible personal property
6 for use in this state, collect from the purchasers or transferees the
7 tax imposed under this chapter. The tax to be collected under this
8 section must be in an amount equal to the purchase price multiplied
9 by the rate in effect for the retail sales tax under RCW 82.08.020.
10 (~~For the purposes of this chapter, the phrase "maintains in this~~
11 ~~state a place of business" includes the solicitation of sales and/or~~
12 ~~taking of orders by sales agents or traveling representatives. For~~
13 ~~the purposes of this chapter, "engages in business activity within~~
14 ~~this state" includes every activity which is sufficient under the~~
15 ~~Constitution of the United States for this state to require~~
16 ~~collection of tax under this chapter. The department must in rules~~
17 ~~specify activities which constitute engaging in business activity~~
18 ~~within this state, and must keep the rules current with future court~~
19 ~~interpretations of the Constitution of the United States.)~~)

20 (2) Every person who engages in this state in the business of
21 acting as an independent selling agent for persons who do not hold a
22 valid certificate of registration, and who receives compensation by
23 reason of sales of tangible personal property, digital goods, digital
24 codes, digital automated services, extended warranties, or sales of
25 any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g)
26 or (6)((+b+)) (c), of his or her principals for use in this state,
27 must, at the time such sales are made, collect from the purchasers
28 the tax imposed on the purchase price under this chapter, and for
29 that purpose is deemed a retailer as defined in this chapter.

30 (3) The tax required to be collected by this chapter is deemed to
31 be held in trust by the retailer until paid to the department, and
32 any retailer who appropriates or converts the tax collected to the
33 retailer's own use or to any use other than the payment of the tax
34 provided herein to the extent that the money required to be collected
35 is not available for payment on the due date as prescribed is guilty
36 of a misdemeanor. In case any seller fails to collect the tax herein
37 imposed or having collected the tax, fails to pay the same to the
38 department in the manner prescribed, whether such failure is the
39 result of the seller's own acts or the result of acts or conditions
40 beyond the seller's control, the seller is nevertheless personally

1 liable to the state for the amount of such tax, unless the seller has
2 taken from the buyer a copy of a direct pay permit issued under RCW
3 82.32.087.

4 (4) Any retailer who refunds, remits, or rebates to a purchaser,
5 or transferee, either directly or indirectly, and by whatever means,
6 all or any part of the tax levied by this chapter is guilty of a
7 misdemeanor.

8 ~~(5) ((Notwithstanding subsections (1) through (4) of this~~
9 ~~section, any person making sales is not obligated to collect the tax~~
10 ~~imposed by this chapter if:~~

11 ~~(a) The person's activities in this state, whether conducted~~
12 ~~directly or through another person, are limited to:~~

13 ~~(i) The storage, dissemination, or display of advertising;~~

14 ~~(ii) The taking of orders; or~~

15 ~~(iii) The processing of payments; and~~

16 ~~(b) The activities are conducted electronically via a web site on~~
17 ~~a server or other computer equipment located in Washington that is~~
18 ~~not owned or operated by the person making sales into this state nor~~
19 ~~owned or operated by an affiliated person. "Affiliated persons" has~~
20 ~~the same meaning as provided in RCW 82.04.424.~~

21 ~~(6) Subsection (5) of this section expires when: (a) The United~~
22 ~~States congress grants individual states the authority to impose~~
23 ~~sales and use tax collection duties on remote sellers; or (b) it is~~
24 ~~determined by a court of competent jurisdiction, in a judgment not~~
25 ~~subject to review, that a state can impose sales and use tax~~
26 ~~collection duties on remote sellers.~~

27 ~~(7))~~ Notwithstanding subsections (1) through (4) of this
28 section, any person making sales is not obligated to collect the tax
29 imposed by this chapter if the person would have been obligated to
30 collect retail sales tax on the sale absent a specific exemption
31 provided in chapter 82.08 RCW, and there is no corresponding use tax
32 exemption in this chapter. Nothing in this subsection ~~((7))~~ (5) may
33 be construed as relieving purchasers from liability for reporting and
34 remitting the tax due under this chapter directly to the department.

35 ~~((8))~~ (6) Notwithstanding subsections (1) through (4) of this
36 section, any person making sales is not obligated to collect the tax
37 imposed by this chapter if the state is prohibited under the
38 Constitution or laws of the United States from requiring the person
39 to collect the tax imposed by this chapter.

1 (~~(9)~~) (7) Notwithstanding subsections (1) through (4) of this
2 section, any licensed dealer facilitating a firearm sale or transfer
3 between two unlicensed persons by conducting background checks under
4 chapter 9.41 RCW is not obligated to collect the tax imposed by this
5 chapter.

6 NEW SECTION. **Sec. 613.** A new section is added to chapter 82.32
7 RCW to read as follows:

8 (1) If the department determines that a change, taking effect
9 after the effective date of this section, in the streamlined sales
10 and use tax agreement or federal law creates a conflict with any
11 provision of section 602 or 603 of this act, such conflicting
12 provision or provisions of section 602 or 603 of this act, including
13 any related provisions that would not function as originally
14 intended, have no further force and effect as of the date the change
15 in the streamlined sales and use tax agreement or federal law becomes
16 effective.

17 (2) For purposes of this section:

18 (a) A change in federal law conflicts with section 602 or 603 of
19 this act if the change clearly allows states to impose greater sales
20 and use tax collection obligations on remote sellers, referrers, or
21 marketplace facilitators than provided for, or clearly prevents
22 states from imposing sales and use tax collection obligations on
23 remote sellers, referrers, or marketplace facilitators to the extent
24 provided for, under section 602 or 603 of this act.

25 (b) A change in the streamlined sales and use tax agreement
26 conflicts with section 602 or 603 of this act if one or more
27 provisions of section 602 or 603 of this act causes this state to be
28 found out of compliance with the streamlined sales and use tax
29 agreement by its governing board.

30 (3) If the department makes a determination under this section
31 that a change in federal law or the streamlined sales and use tax
32 agreement conflicts with one or more provisions of section 602 or 603
33 of this act, the department:

34 (a) May adopt rules in accordance with chapter 34.05 RCW that are
35 consistent with the streamlined sales and use tax agreement and that
36 impose sales and use tax collection obligations on remote sellers,
37 referrers, or marketplace facilitators to the fullest extent allowed
38 under state and federal law; and

1 (b) Must include information on its web site informing taxpayers
2 and the public (i) of the provision or provisions of section 602 or
3 603 of this act that will have no further force and effect, (ii) when
4 such change will become effective, and (iii) about how to participate
5 in any rule making conducted by the department in accordance with (a)
6 of this subsection (3).

7 (4) For purposes of this section, "remote seller," "referrer,"
8 and "marketplace facilitator" have the same meaning as provided in
9 section 604 of this act.

10 Part VII

11 **Expanding Individual Liability for an Entity's Unpaid Tax Obligations**

12 **Sec. 701.** RCW 82.32.145 and 2015 c 188 s 121 are each amended to
13 read as follows:

14 (1) Whenever the department has issued a warrant under RCW
15 82.32.210 for the collection of unpaid (~~trust-fund~~) recoverable
16 taxes from a limited liability business entity and that business
17 entity has been terminated, dissolved, or abandoned, or is insolvent,
18 the department may pursue collection of the entity's unpaid (~~trust~~
19 ~~fund~~) recoverable taxes, including penalties and interest on those
20 taxes, against any or all of the responsible individuals. For
21 purposes of this subsection, "insolvent" means the condition that
22 results when the sum of the entity's debts exceeds the fair market
23 value of its assets. The department may presume that an entity is
24 insolvent if the entity refuses to disclose to the department the
25 nature of its assets and liabilities.

26 (2) Personal liability under this section may be imposed only for
27 state and local (~~trust-fund~~) recoverable taxes.

28 (3)(a) For a responsible individual who is the current or a
29 former chief executive or chief financial officer, liability under
30 this section applies regardless of fault or whether the individual
31 was or should have been aware of the unpaid (~~trust-fund~~)
32 recoverable tax liability of the limited liability business entity.
33 This subsection (3)(a) applies only with respect to recoverable tax
34 liability described in subsection (4)(a)(i) of this section.

35 (b) For any other responsible individual, liability under this
36 section applies only if he or she willfully fails to pay or to cause
37 to be paid to the department the (~~trust-fund~~) recoverable taxes due
38 from the limited liability business entity.

1 (4)(a)(i) Except as provided in (a)(ii) of this subsection (4)
2 ((~~a~~)), a responsible individual who is the current or a former
3 chief executive or chief financial officer is liable under this
4 section only for (~~trust-fund~~) recoverable tax liability accrued
5 during the period that he or she was the chief executive or chief
6 financial officer.

7 (ii) However, if the responsible individual had the
8 responsibility or duty to remit payment of the limited liability
9 business entity's (~~trust-fund~~) recoverable taxes to the department
10 during any period of time that the person was not the chief executive
11 or chief financial officer, that individual is also liable for
12 (~~trust-fund~~) recoverable tax liability that became due during the
13 period that he or she had the duty to remit payment of the limited
14 liability business entity's taxes to the department but was not the
15 chief executive or chief financial officer. The provisions of
16 subsection (3)(b) of this section apply to recoverable tax liability
17 imposed under this subsection (4)(a)(ii).

18 (b) All other responsible individuals are liable under this
19 section only for (~~trust-fund~~) recoverable tax liability that became
20 due during the period he or she had the responsibility or duty to
21 remit payment of the limited liability business entity's taxes to the
22 department.

23 (5) Persons described in subsection (3)(b) of this section are
24 exempt from liability under this section in situations where
25 nonpayment of the limited liability business entity's (~~trust-fund~~)
26 recoverable taxes is due to reasons beyond their control as
27 determined by the department by rule.

28 (6) Any person having been issued a notice of assessment under
29 this section is entitled to the appeal procedures under RCW
30 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

31 (7) This section does not relieve the limited liability business
32 entity of its (~~trust-fund~~) recoverable tax liability or otherwise
33 impair other tax collection remedies afforded by law.

34 (8) Collection authority and procedures prescribed in this
35 chapter apply to collections under this section.

36 (9) The definitions in this subsection apply throughout this
37 section unless the context clearly requires otherwise.

38 (a) "Chief executive" means: The president of a corporation; or
39 for other entities or organizations other than corporations or if the
40 corporation does not have a president as one of its officers, the

1 highest ranking executive manager or administrator in charge of the
2 management of the company or organization.

3 (b) "Chief financial officer" means: The treasurer of a
4 corporation; or for entities or organizations other than corporations
5 or if a corporation does not have a treasurer as one of its officers,
6 the highest senior manager who is responsible for overseeing the
7 financial activities of the entire company or organization.

8 (c) "Limited liability business entity" means a type of business
9 entity that generally shields its owners from personal liability for
10 the debts, obligations, and liabilities of the entity, or a business
11 entity that is managed or owned in whole or in part by an entity that
12 generally shields its owners from personal liability for the debts,
13 obligations, and liabilities of the entity. Limited liability
14 business entities include corporations, limited liability companies,
15 limited liability partnerships, trusts, general partnerships and
16 joint ventures in which one or more of the partners or parties are
17 also limited liability business entities, and limited partnerships in
18 which one or more of the general partners are also limited liability
19 business entities.

20 (d) "Manager" has the same meaning as in RCW 25.15.006.

21 (e) "Member" has the same meaning as in RCW 25.15.006, except
22 that the term only includes members of member-managed limited
23 liability companies.

24 (f) "Officer" means any officer or assistant officer of a
25 corporation, including the president, vice president, secretary, and
26 treasurer.

27 (g) "Recoverable tax" means:

28 (i) State sales and use taxes imposed under chapters 82.08 and
29 82.12 RCW, including spirits taxes imposed under RCW 82.08.150,
30 whether collected by a limited liability business entity or imposed
31 on a limited liability business entity as a purchaser or consumer;

32 (ii) Local sales and use taxes imposed under the authority of
33 chapter 82.14 RCW, RCW 81.104.170, or any other provision of law, and
34 administered by the department, whether collected by a limited
35 liability business entity or imposed on a limited liability business
36 entity as a purchaser or consumer;

37 (iii) State business and occupation taxes imposed under chapter
38 82.04 RCW;

39 (iv) Cigarette taxes imposed under chapter 82.24 RCW; and

40 (v) Tobacco products taxes imposed under chapter 82.26 RCW.

1 penalty, or interest has been paid in excess of that properly due,
2 the excess amount paid within, or attributable to, such period must
3 be credited to the taxpayer's account or must be refunded to the
4 taxpayer, at the taxpayer's option. Except as provided in subsection
5 (2) of this section, no refund or credit may be made for taxes,
6 penalties, or interest paid more than four years prior to the
7 beginning of the calendar year in which the refund application is
8 made or examination of records is completed.

9 (2)(a) The execution of a written waiver under RCW 82.32.050 or
10 82.32.100 will extend the time for making a refund or credit of any
11 taxes paid during, or attributable to, the years covered by the
12 waiver if, prior to the expiration of the waiver period, an
13 application for refund of such taxes is made by the taxpayer or the
14 department discovers a refund or credit is due.

15 (b) A refund or credit must be allowed for an excess payment
16 resulting from the failure to claim a bad debt deduction, credit, or
17 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or
18 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec.
19 166, as amended or renumbered as of January 1, 2003, less than four
20 years prior to the beginning of the calendar year in which the refund
21 application is made or examination of records is completed.

22 (3) Any such refunds must be made by means of vouchers approved
23 by the department and by the issuance of state warrants drawn upon
24 and payable from such funds as the legislature may provide. However,
25 taxpayers who are required to pay taxes by electronic funds transfer
26 under RCW 82.32.080 must have any refunds paid by electronic funds
27 transfer if the department has the necessary account information to
28 facilitate a refund by electronic funds transfer.

29 (4) Any judgment for which a recovery is granted by any court of
30 competent jurisdiction, not appealed from, for tax, penalties, and
31 interest which were paid by the taxpayer, and costs, in a suit by any
32 taxpayer must be paid in the same manner, as provided in subsection
33 (3) of this section, upon the filing with the department of a
34 certified copy of the order or judgment of the court.

35 ~~((a) Interest at the rate of three percent per annum must be~~
36 ~~allowed by the department and by any court on the amount of any~~
37 ~~refund, credit, or other recovery allowed to a taxpayer for taxes,~~
38 ~~penalties, or interest paid by the taxpayer before January 1, 1992.~~
39 ~~This rate of interest applies for all interest allowed through~~
40 ~~December 31, 1998. Interest allowed after December 31, 1998, must be~~

1 ~~computed at the rate as computed under RCW 82.32.050(2). The rate so~~
2 ~~computed must be adjusted on the first day of January of each year~~
3 ~~for use in computing interest for that calendar year.~~

4 ~~(b) For refunds or credits of amounts paid or other recovery~~
5 ~~allowed to a taxpayer after December 31, 1991, the rate of interest~~
6 ~~must be the rate as computed for assessments under RCW 82.32.050(2)~~
7 ~~less one percent. This rate of interest applies for all interest~~
8 ~~allowed through December 31, 1998. Interest allowed after December~~
9 ~~31, 1998, must be computed at the rate as computed under RCW~~
10 ~~82.32.050(2). The rate so computed must be adjusted on the first day~~
11 ~~of January of each year for use in computing interest for that~~
12 ~~calendar year.))~~

13 (5)(a) Interest must be added to the amount of any refund,
14 credit, or other recovery allowed under this section for excess
15 taxes, penalties, or interest paid by the taxpayer at the following
16 rates:

17 (i) For all interest allowed through December 31, 2017, and for
18 interest allowed after December 31, 2017, except specified interest,
19 the interest rate is the same as provided in RCW 82.32.050(2).

20 (ii) For specified interest allowed beginning January 1, 2018,
21 the interest rate is the same as provided in RCW 82.32.050(2),
22 reduced by two percentage points.

23 (b) The rate so computed under (a) of this subsection must be
24 adjusted on the first day of January of each year for use in
25 computing interest for that calendar year.

26 (c) For purposes of this subsection (5), the following
27 definitions apply:

28 (i) "Combined excise tax return" means any version of the return
29 used by taxpayers to report taxes imposed under chapters 82.04,
30 82.08, 82.12, or 82.16 RCW, whether such return is filed
31 electronically or on a paper document; and

32 (ii) "Specified interest" means interest due on amounts paid in
33 excess of the proper amount due for any tax that is reportable on the
34 department's combined excise tax return, including any penalties and
35 interest added to such tax.

36 (6) Interest allowed on a credit notice or refund issued after
37 December 31, 2003, must be computed as follows:

38 (a) If all overpayments for each calendar year and all reporting
39 periods ending with the final month included in a notice or refund
40 were made on or before the due date of the final return for each

1 calendar year or the final reporting period included in the notice or
2 refund:

3 (i) Interest must be computed from January 31st following each
4 calendar year included in a notice or refund; or

5 (ii) Interest must be computed from the last day of the month
6 following the final month included in a notice or refund.

7 (b) If the taxpayer has not made all overpayments for each
8 calendar year and all reporting periods ending with the final month
9 included in a notice or refund on or before the dates specified by
10 RCW 82.32.045 for the final return for each calendar year or the
11 final month included in the notice or refund, interest must be
12 computed from the last day of the month following the date on which
13 payment in full of the liabilities was made for each calendar year
14 included in a notice or refund, and the last day of the month
15 following the date on which payment in full of the liabilities was
16 made if the final month included in a notice or refund is not the end
17 of a calendar year.

18 (c) Interest included in a credit notice must accrue up to the
19 date the taxpayer could reasonably be expected to use the credit
20 notice, as defined by the department's rules. If a credit notice is
21 converted to a refund, interest must be recomputed to the date the
22 refund is issued, but not to exceed the amount of interest that would
23 have been allowed with the credit notice.

24 **Part IX**
25 **Transfers to Education Legacy Trust Account**

26 NEW SECTION. **Sec. 901.** A new section is added to chapter 82.32
27 RCW to read as follows:

28 (1)(a) By the last workday of the second and fourth calendar
29 quarters, the state treasurer must transfer the amount specified in
30 (b) of this subsection from the general fund to the education legacy
31 trust account. The first transfer under this subsection (1) must
32 occur by December 31, 2017.

33 (b) By December 15th and by June 15th of each fiscal year, the
34 department must estimate the net increase in state general fund
35 revenues from the changes made under parts II, III, and VI of this
36 act for the applicable six-month period of the current fiscal year
37 and the same six-month period of fiscal year 2017 and notify the
38 state treasurer of the increase.

1 (2)(a) By the last workday of each fiscal year quarter, the state
2 treasurer must transfer the amount specified in (b) of this
3 subsection from the general fund to the education legacy trust
4 account. The first transfer under this subsection (2) must occur by
5 September 30, 2017.

6 (b) By September 15th, December 15th, April 15th, and June 15th
7 of each fiscal year, the department must estimate the net increase in
8 state revenues from changes made under part IV of this act for the
9 applicable current fiscal year quarter and the same fiscal year
10 quarter of fiscal year 2017 and notify the state treasurer of the
11 increase.

12 NEW SECTION. **Sec. 902.** A new section is added to chapter 43.135
13 RCW to read as follows:

14 RCW 43.135.034(4) does not apply to the transfers under section
15 901 of this act.

16 NEW SECTION. **Sec. 903.** A new section is added to chapter 39.42
17 RCW to read as follows:

18 The purpose of parts II through IV and VI of this act is to levy
19 revenues for the support of education-related expenditures from the
20 education legacy trust account. For this reason, general state
21 revenues transferred to the education legacy trust account under
22 section 901 of this act are excluded from the calculation of general
23 state revenues for purposes of Article VIII, section 1 of the state
24 Constitution and RCW 39.42.130 and 39.42.140.

25 **Part X**

26 **General Conforming Amendments**

27 **Sec. 1001.** RCW 82.04.293 and 1997 c 7 s 3 are each amended to
28 read as follows:

29 For purposes of RCW (~~82.04.290~~) 82.08.207 and 82.12.207:

30 (1) A person is engaged in the business of providing
31 international investment management services, if:

32 (a) Such person is engaged primarily in the business of providing
33 investment management services; and

34 (b) At least ten percent of the gross income of such person is
35 derived from providing investment management services to any of the
36 following: (i) Persons or collective investment funds residing

1 outside the United States; or (ii) persons or collective investment
2 funds with at least ten percent of their investments located outside
3 the United States.

4 (2) "Investment management services" means investment research,
5 investment consulting, portfolio management, fund administration,
6 fund distribution, investment transactions, or related investment
7 services.

8 (3) "Collective investment fund" includes:

9 (a) A mutual fund or other regulated investment company, as
10 defined in section 851(a) of the internal revenue code of 1986, as
11 amended;

12 (b) An "investment company," as that term is used in section 3(a)
13 of the investment company act of 1940, as well as any entity that
14 would be an investment company for this purpose but for the
15 exemptions contained in section 3(c)(1) or (11);

16 (c) An "employee benefit plan," which includes any plan, trust,
17 commingled employee benefit trust, or custodial arrangement that is
18 subject to the employee retirement income security act of 1974, as
19 amended, 29 U.S.C. Sec. 1001 et seq., or that is described in
20 sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23)
21 of the internal revenue code of 1986, as amended, or a similar plan
22 maintained by a state or local government, or a plan, trust, or
23 custodial arrangement established to self-insure benefits required by
24 federal, state, or local law;

25 (d) A fund maintained by a tax-exempt organization, as defined in
26 section 501(c)(3) of the internal revenue code of 1986, as amended,
27 for operating, quasi-endowment, or endowment purposes;

28 (e) Funds that are established for the benefit of such tax-exempt
29 organizations, such as charitable remainder trusts, charitable lead
30 trusts, charitable annuity trusts, or other similar trusts; or

31 (f) Collective investment funds similar to those described in (a)
32 through (e) of this subsection created under the laws of a foreign
33 jurisdiction.

34 (4) Investments are located outside the United States if the
35 underlying assets in which the investment constitutes a beneficial
36 interest reside or are created, issued or held outside the United
37 States.

38 (5) This section expires July 1, 2021.

1 **Sec. 1002.** RCW 82.04.440 and 2011 c 2 s 205 are each amended to
2 read as follows:

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

7 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250,
8 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), (4), (11),
9 or (12) with respect to selling products in this state, including
10 those persons who are also taxable under RCW 82.04.261 or section 203
11 of this act, with respect to selling products in this state, are
12 allowed a credit against those taxes for any (a) manufacturing taxes
13 paid with respect to the manufacturing of products so sold in this
14 state, and/or (b) extracting taxes paid with respect to the
15 extracting of products so sold in this state or ingredients of
16 products so sold in this state. Extracting taxes taken as credit
17 under subsection (3) of this section may also be taken under this
18 subsection, if otherwise allowable under this subsection. The amount
19 of the credit may not exceed the tax liability arising under this
20 chapter with respect to the sale of those products.

21 (3) Persons taxable as manufacturers under RCW 82.04.240 or
22 82.04.260 (1)(b) or (12), including those persons who are also
23 taxable under RCW 82.04.261 or section 203 of this act, with respect
24 to the manufacturing of products in this state, are allowed a credit
25 against those taxes for any extracting taxes paid with respect to
26 extracting the ingredients of the products so manufactured in this
27 state. The amount of the credit may not exceed the tax liability
28 arising under this chapter with respect to the manufacturing of those
29 products.

30 (4) Persons taxable under RCW 82.04.230, 82.04.240,
31 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (4),
32 (11), or (12), including those persons who are also taxable under RCW
33 82.04.261 or section 203 of this act, with respect to extracting or
34 manufacturing products in this state, are allowed a credit against
35 those taxes for any (i) gross receipts taxes paid to another state
36 with respect to the sales of the products so extracted or
37 manufactured in this state, (ii) manufacturing taxes paid with
38 respect to the manufacturing of products using ingredients so
39 extracted in this state, or (iii) manufacturing taxes paid with
40 respect to manufacturing activities completed in another state for

1 products so manufactured in this state. The amount of the credit may
2 not exceed the tax liability arising under this chapter with respect
3 to the extraction or manufacturing of those products.

4 (5) (~~For the purpose of this section:~~) The definitions in this
5 subsection apply throughout this section unless the context clearly
6 requires otherwise.

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

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

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

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

18 (c) "Manufacturing tax" means a gross receipts tax imposed on the
19 act or privilege of engaging in business as a manufacturer, and
20 includes:

21 (i) The taxes imposed in RCW 82.04.240, 82.04.2404,
22 82.04.2909(1), 82.04.260 (1), (2), (4), (11), and (12), and
23 82.04.294(1);

24 (ii) The tax imposed under RCW 82.04.261 and section 203 of this
25 act on persons who are engaged in business as a manufacturer; and

26 (iii) Similar gross receipts taxes paid to other states.

27 (d) "Extracting tax" means a gross receipts tax imposed on the
28 act or privilege of engaging in business as an extractor, and
29 includes:

30 (i) The tax imposed on extractors in RCW 82.04.230 and
31 82.04.260(12);

32 (ii) The (~~tax~~) taxes imposed under RCW 82.04.261 and section
33 203 of this act on persons who are engaged in business as an
34 extractor; and

35 (iii) Similar gross receipts taxes paid to other states.

36 (e) "Business", "manufacturer", "extractor", and other terms used
37 in this section have the meanings given in RCW 82.04.020 through
38 (~~82.04.212 [82.04.217]~~) 82.04.217, notwithstanding the use of those
39 terms in the context of describing taxes imposed by other states.

1 **Sec. 1003.** RCW 82.04.44525 and 2009 c 535 s 1104 are each
2 amended to read as follows:

3 (1) Subject to the limits in this section, an eligible person is
4 allowed a credit against the tax due under this chapter. The credit
5 is based on qualified employment positions in eligible areas. The
6 credit is available to persons who are engaged in international
7 services as defined in this section. In order to receive the credit,
8 the international service activities must take place at a business
9 within the eligible area.

10 (2)(a) The credit (~~shall~~) equals three thousand dollars for
11 each qualified employment position created after July 1, 1998, in an
12 eligible area. A credit is earned for the calendar year the person is
13 hired to fill the position, plus the four subsequent consecutive
14 years, if the position is maintained for those four years.

15 (b) Credit may not be taken for hiring of persons into positions
16 that exist on July 1, 1998. Credit is authorized for new employees
17 hired for new positions created after July 1, 1998. New positions
18 filled by existing employees are eligible for the credit under this
19 section only if the position vacated by the existing employee is
20 filled by a new hire.

21 (c) When a position is newly created, if it is filled before July
22 1st, this position is eligible for the full yearly credit. If it is
23 filled after June 30th, this position is eligible for half of the
24 credit.

25 (d) Credit may be accrued and carried over until it is used. No
26 refunds may be granted for credits under this section.

27 (3) (~~For the purposes of this section:~~) The definitions in this
28 subsection apply throughout this section unless the context clearly
29 requires otherwise.

30 (a) "Eligible area" means: (i) A community empowerment zone under
31 RCW 43.31C.020; or (ii) a contiguous group of census tracts that
32 meets the unemployment and poverty criteria of RCW 43.31C.030 and is
33 designated under subsection (4) of this section;

34 (b) "Eligible person" means a person, as defined in RCW
35 82.04.030, who in an eligible area at a specific location is engaged
36 in the business of providing international services;

37 (c)(i) "International services" means the provision of a service,
38 as defined under (c)(~~iii~~) (ii) of this subsection, that is
39 subject to tax under RCW 82.04.290 (1) or (2) (~~or (3)~~), and either:

40 (A) Is for a person domiciled outside the United States; or

1 (B) The service itself is for use primarily outside of the United
2 States.

3 (ii) (~~"International services" excludes any service taxable~~
4 ~~under RCW 82.04.290(1).~~

5 (~~iii~~)) Eligible services are: Computer; data processing;
6 information; legal; accounting and tax preparation; engineering;
7 architectural; business consulting; business management; public
8 relations and advertising; surveying; geological consulting; real
9 estate appraisal; or financial services. For the purposes of this
10 section these services mean the following:

11 (A) "Computer services" are services such as computer
12 programming, custom software modification, customization of canned
13 software, custom software installation, custom software maintenance,
14 custom software repair, training in the use of software, computer
15 systems design, and custom software update services;

16 (B) "Data processing services" are services such as word
17 processing, data entry, data retrieval, data search, information
18 compilation, payroll processing, business accounts processing, data
19 production, and other computerized data and information storage or
20 manipulation. "Data processing services" also includes the use of a
21 computer or computer time for data processing whether the processing
22 is performed by the provider of the computer or by the purchaser or
23 other beneficiary of the service;

24 (C) "Information services" are services such as electronic data
25 retrieval or research that entails furnishing financial or legal
26 information, data or research, internet access as defined in RCW
27 82.04.297, general or specialized news, or current information;

28 (D) "Legal services" are services such as representation by an
29 attorney, or other person when permitted, in an administrative or
30 legal proceeding, legal drafting, paralegal services, legal research
31 services, and court reporting services, arbitration, and mediation
32 services;

33 (E) "Accounting and tax preparation services" are services such
34 as accounting, auditing, actuarial, bookkeeping, or tax preparation
35 services;

36 (F) "Engineering services" are services such as civil,
37 electrical, mechanical, petroleum, marine, nuclear, and design
38 engineering, machine designing, machine tool designing, and sewage
39 disposal system designing services;

1 (G) "Architectural services" are services such as structural or
2 landscape design or architecture, interior design, building design,
3 building program management, and space planning services;

4 (H) "Business consulting services" are services such as primarily
5 providing operating counsel, advice, or assistance to the management
6 or owner of any business, private, nonprofit, or public organization,
7 including but not limited to those in the following areas:
8 Administrative management consulting; general management consulting;
9 human resource consulting or training; management engineering
10 consulting; management information systems consulting; manufacturing
11 management consulting; marketing consulting; operations research
12 consulting; personnel management consulting; physical distribution
13 consulting; site location consulting; economic consulting; motel,
14 hotel, and resort consulting; restaurant consulting; government
15 affairs consulting; and lobbying;

16 (I) "Business management services" are services such as
17 administrative management, business management, and office
18 management. "Business management services" does not include property
19 management or property leasing, motel, hotel, and resort management,
20 or automobile parking management;

21 (J) "Public relations and advertising services" are services such
22 as layout, art direction, graphic design, copy writing, mechanical
23 preparation, opinion research, marketing research, marketing, or
24 production supervision;

25 (K) "Surveying services" are services such as land surveying;

26 (L) "Geological consulting services" are services rendered for
27 the oil, gas, and mining industry and other earth resource
28 industries, and other services such as soil testing;

29 (M) "Real estate appraisal services" are services such as market
30 appraisal and other real estate valuation; and

31 (N) "Financial services" are services such as banking, loan,
32 security, investment management, investment advisory, mortgage
33 servicing, contract collection, and finance leasing services, engaged
34 in by financial businesses, or businesses similar to or in
35 competition with financial businesses; and

36 (d) "Qualified employment position" means a permanent full-time
37 position to provide international services. If an employee is either
38 voluntarily or involuntarily separated from employment, the
39 employment position is considered filled on a full-time basis if the

1 employer is either training or actively recruiting a replacement
2 employee.

3 (4) By ordinance, the legislative authority of a city, or
4 legislative authorities of contiguous cities by ordinance of each
5 city's legislative authority, with population greater than eighty
6 thousand, located in a county containing no community empowerment
7 zones as designated under RCW 43.31C.020, may designate a contiguous
8 group of census tracts within the city or cities as an eligible area
9 under this section. Each of the census tracts must meet the
10 unemployment and poverty criteria of RCW 43.31C.030. Upon making the
11 designation, the city or cities (~~shall~~) must transmit to the
12 department of revenue a certification letter and a map, each
13 explicitly describing the boundaries of the census tract. This
14 designation must be made by December 31, 1998.

15 (5) No application is necessary for the tax credit. The person
16 must keep records necessary for the department to verify eligibility
17 under this section. This information includes:

18 (a) Employment records for the previous six years;

19 (b) Information relating to description of international service
20 activity engaged in at the eligible location by the person; and

21 (c) Information relating to customers of international service
22 activity engaged in at that location by the person.

23 (6) If at any time the department finds that a person is not
24 eligible for tax credit under this section, the amount of taxes for
25 which a credit has been used (~~shall be~~) is immediately due. The
26 department (~~shall~~) must assess interest, but not penalties, on the
27 credited taxes for which the person is not eligible. The interest
28 (~~shall~~) must be assessed at the rate provided for delinquent excise
29 taxes under chapter 82.32 RCW, (~~shall~~) must be assessed
30 retroactively to the date the tax credit was taken, and (~~shall~~)
31 must accrue until the taxes for which a credit has been used are
32 repaid.

33 (7) The employment security department (~~shall~~) must provide to
34 the department of revenue such information needed by the department
35 of revenue to verify eligibility under this section.

36 **Sec. 1004.** RCW 82.04.4463 and 2013 3rd sp.s. c 2 s 10 are each
37 amended to read as follows:

1 (1) In computing the tax imposed under this chapter, a credit is
2 allowed for property taxes and leasehold excise taxes paid during the
3 calendar year.

4 (2) The credit is equal to:

5 (a)(i)(A) Property taxes paid on buildings, and land upon which
6 the buildings are located, constructed after December 1, 2003, and
7 used exclusively in manufacturing commercial airplanes or components
8 of such airplanes; and

9 (B) Leasehold excise taxes paid with respect to buildings
10 constructed after January 1, 2006, the land upon which the buildings
11 are located, or both, if the buildings are used exclusively in
12 manufacturing commercial airplanes or components of such airplanes;
13 and

14 (C) Property taxes or leasehold excise taxes paid on, or with
15 respect to, buildings constructed after June 30, 2008, the land upon
16 which the buildings are located, or both, and used exclusively for
17 aerospace product development, manufacturing tooling specifically
18 designed for use in manufacturing commercial airplanes or their
19 components, or in providing aerospace services, by persons not within
20 the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable
21 under RCW 82.04.290(~~(+3)~~) (1), 82.04.260(11)(b), or 82.04.250(3); or

22 (ii) Property taxes attributable to an increase in assessed value
23 due to the renovation or expansion, after: (A) December 1, 2003, of a
24 building used exclusively in manufacturing commercial airplanes or
25 components of such airplanes; and (B) June 30, 2008, of buildings
26 used exclusively for aerospace product development, manufacturing
27 tooling specifically designed for use in manufacturing commercial
28 airplanes or their components, or in providing aerospace services, by
29 persons not within the scope of (a)(ii)(A) of this subsection (2) and
30 are taxable under RCW 82.04.290(~~(+3)~~) (1), 82.04.260(11)(b), or
31 82.04.250(3); and

32 (b) An amount equal to:

33 (i)(A) Property taxes paid, by persons taxable under RCW
34 82.04.260(11)(a), on machinery and equipment exempt under RCW
35 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

36 (B) Property taxes paid, by persons taxable under RCW
37 82.04.260(11)(b), on machinery and equipment exempt under RCW
38 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

39 (C) Property taxes paid, by persons taxable under RCW
40 82.04.250(3) or 82.04.290(~~(+3)~~) (1), on computer hardware, computer

1 peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and
2 acquired after June 30, 2008.

3 (ii) For purposes of determining the amount eligible for credit
4 under (i)(A) and (B) of this subsection (2)(b), the amount of
5 property taxes paid is multiplied by a fraction.

6 (A) The numerator of the fraction is the total taxable amount
7 subject to the tax imposed under RCW 82.04.260(11) (a) or (b) on the
8 applicable business activities of manufacturing commercial airplanes,
9 components of such airplanes, or tooling specifically designed for
10 use in the manufacturing of commercial airplanes or components of
11 such airplanes.

12 (B) The denominator of the fraction is the total taxable amount
13 subject to the tax imposed under all manufacturing classifications in
14 chapter 82.04 RCW.

15 (C) For purposes of both the numerator and denominator of the
16 fraction, the total taxable amount refers to the total taxable amount
17 required to be reported on the person's returns for the calendar year
18 before the calendar year in which the credit under this section is
19 earned. The department may provide for an alternative method for
20 calculating the numerator in cases where the tax rate provided in RCW
21 82.04.260(11) for manufacturing was not in effect during the full
22 calendar year before the calendar year in which the credit under this
23 section is earned.

24 (D) No credit is available under (b)(i)(A) or (B) of this
25 subsection (2) if either the numerator or the denominator of the
26 fraction is zero. If the fraction is greater than or equal to nine-
27 tenths, then the fraction is rounded to one.

28 (E) As used in (b)(ii)(C) of this subsection (2), "returns" means
29 the tax returns for which the tax imposed under this chapter is
30 reported to the department.

31 (3) The definitions in this subsection apply throughout this
32 section, unless the context clearly indicates otherwise.

33 (a) "Aerospace product development" has the same meaning as
34 provided in RCW 82.04.4461.

35 (b) "Aerospace services" has the same meaning given in RCW
36 82.08.975.

37 (c) "Commercial airplane" and "component" have the same meanings
38 as provided in RCW 82.32.550.

39 (4) A credit earned during one calendar year may be carried over
40 to be credited against taxes incurred in a subsequent calendar year,

1 but may not be carried over a second year. No refunds may be granted
2 for credits under this section.

3 (5) In addition to all other requirements under this title, a
4 person claiming the credit under this section must file a complete
5 annual report with the department under RCW 82.32.534.

6 (6) This section expires July 1, 2040.

7 **Sec. 1005.** RCW 82.04.280 and 2010 c 106 s 205 are each reenacted
8 and amended to read as follows:

9 (1) Upon every person engaging within this state in the business
10 of: (a) Printing materials other than newspapers, and of publishing
11 periodicals or magazines; (b) building, repairing or improving any
12 street, place, road, highway, easement, right-of-way, mass public
13 transportation terminal or parking facility, bridge, tunnel, or
14 trestle which is owned by a municipal corporation or political
15 subdivision of the state or by the United States and which is used or
16 to be used, primarily for foot or vehicular traffic including mass
17 transportation vehicles of any kind and including any readjustment,
18 reconstruction or relocation of the facilities of any public, private
19 or cooperatively owned utility or railroad in the course of such
20 building, repairing or improving, the cost of which readjustment,
21 reconstruction, or relocation, is the responsibility of the public
22 authority whose street, place, road, highway, easement, right-of-way,
23 mass public transportation terminal or parking facility, bridge,
24 tunnel, or trestle is being built, repaired or improved; (c)
25 extracting for hire or processing for hire, except persons taxable as
26 extractors for hire or processors for hire under another section of
27 this chapter; (d) operating a cold storage warehouse or storage
28 warehouse, but not including the rental of cold storage lockers; (e)
29 representing and performing services for fire or casualty insurance
30 companies as an independent resident managing general agent licensed
31 under the provisions of chapter 48.17 RCW; (f) radio and television
32 broadcasting, excluding network, national and regional advertising
33 computed as a standard deduction based on the national average
34 thereof as annually reported by the federal communications
35 commission, or in lieu thereof by itemization by the individual
36 broadcasting station, and excluding that portion of revenue
37 represented by the out-of-state audience computed as a ratio to the
38 station's total audience as measured by the 100 micro-volt signal
39 strength and delivery by wire, if any; (g) engaging in activities

1 which bring a person within the definition of consumer contained in
2 RCW 82.04.190(6); as to such persons, the amount of tax on such
3 business is equal to the gross income of the business multiplied by
4 the rate of 0.484 percent.

5 (2) For the purposes of this section, the following definitions
6 apply unless the context clearly requires otherwise.

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

12 (b) "Storage warehouse" means a building or structure, or any
13 part thereof, in which goods, wares, or merchandise are received for
14 storage for compensation, except field warehouses, fruit warehouses,
15 fruit packing plants, warehouses licensed under chapter 22.09 RCW,
16 public garages storing automobiles, railroad freight sheds, docks and
17 wharves, and "self-storage" or "mini storage" facilities whereby
18 customers have direct access to individual storage areas by separate
19 entrance. (~~("Storage warehouse" does not include a building or
20 structure, or that part of such building or structure, in which an
21 activity taxable under RCW 82.04.272 is conducted.)~~)

22 (c) "Periodical or magazine" means a printed publication, other
23 than a newspaper, issued regularly at stated intervals at least once
24 every three months, including any supplement or special edition of
25 the publication.

26 **Sec. 1006.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s
27 401 are each reenacted and amended to read as follows:

28 (1)(a) (~~(Section 206, chapter 106, Laws of 2010,)~~) Sections 104,
29 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010,
30 (~~(section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws
31 of 2006,)~~) and sections ((4)) 1, 2, 3, and 5 through 10, chapter 149,
32 Laws of 2003 are contingent upon the siting and commercial operation
33 of a significant semiconductor microchip fabrication facility in the
34 state of Washington.

35 (b) For the purposes of this section:

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

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

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

5 (2) (~~Chapter 149, Laws of 2003 takes~~) The sections referenced
6 in subsection (1) of this section take effect the first day of the
7 month in which a contract for the construction of a significant
8 semiconductor fabrication facility is signed, as determined by the
9 director of the department of revenue.

10 (3)(a) The department of revenue must provide notice of the
11 effective date of (~~sections 104, 110, 117, 123, 125, 129, 131, and~~
12 ~~150, chapter 114, Laws of 2010[,], section 3, chapter 461, Laws of~~
13 ~~2009, section 7, chapter 300, Laws of 2006, and section 4, chapter~~
14 ~~149, Laws of 2003~~) the sections referenced in subsection (1) of this
15 section to affected taxpayers, the legislature, and others as deemed
16 appropriate by the department.

17 (b) If, after making a determination that a contract has been
18 signed and (~~chapter 149, Laws of 2003 is~~) the sections referenced
19 in subsection (1) of this section are effective, the department
20 discovers that commencement of commercial production did not take
21 place within three years of the date the contract was signed, the
22 department must make a determination that chapter 149, Laws of 2003
23 is no longer effective, and all taxes that would have been otherwise
24 due are deemed deferred taxes and are immediately assessed and
25 payable from any person reporting tax under RCW 82.04.240(2) or
26 claiming an exemption or credit under (~~section 2 or 5 through 10,~~
27 ~~chapter 149, Laws of 2003~~) RCW 82.04.426, 82.04.448, 82.08.965,
28 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not
29 authorized to make a second determination regarding the effective
30 date of (~~chapter 149, Laws of 2003~~) the sections referenced in
31 subsection (1) of this section.

32 NEW SECTION. Sec. 1007. The following acts or parts of acts are
33 each repealed:

- 34 (1) 2010 c 106 s 206;
35 (2) 2009 c 461 s 3;
36 (3) 2006 c 300 s 7; and
37 (4) 2003 c 149 s 4.

1 **Miscellaneous Provisions**

2 NEW SECTION. **Sec. 1101.** Sections 101 through 112 of this act
3 constitute a new chapter in Title 82 RCW.

4 NEW SECTION. **Sec. 1102.** Sections 604 through 608 of this act
5 constitute a new chapter in Title 82 RCW.

6 NEW SECTION. **Sec. 1103.** This act does not affect any existing
7 right acquired or liability or obligation incurred under the sections
8 amended or repealed or under any rule or order adopted under those
9 sections, nor does it affect any proceeding instituted under those
10 sections.

11 NEW SECTION. **Sec. 1104.** (1) If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 (2) If the department of revenue is prevented from enforcing
16 chapter 82.08 or 82.12 RCW against persons without a physical
17 presence in this state because any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 department of revenue must impose such provisions to the fullest
20 extent allowed under the Constitution and laws of the United States.

21 NEW SECTION. **Sec. 1105.** The tax collection, reporting, and
22 payment obligations imposed by this act apply prospectively only.

23 NEW SECTION. **Sec. 1106.** (1) Except as otherwise provided in
24 this section, this act is necessary for the immediate preservation of
25 the public peace, health, or safety, or support of the state
26 government and its existing public institutions, and takes effect
27 July 1, 2017.

28 (2) Section 801 and part VI of this act take effect January 1,
29 2018.

--- END ---