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**HOUSE BILL 2967**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** Representatives Lytton, Dolan, Wylie, Frame, Valdez, Pollet, Doglio, Santos, and Macri

Read first time 01/30/18. Referred to Committee on Finance.

1 AN ACT Relating to assisting Washington families by improving the  
2 fairness of the state's tax system by enacting a capital gains tax  
3 and providing property tax relief; amending RCW 84.55.010, 84.36.381,  
4 84.36.383, 84.36.385, and 84.38.020; reenacting and amending RCW  
5 84.38.030; adding a new section to chapter 82.04 RCW; adding a new  
6 section to chapter 82.32 RCW; adding a new section to chapter 84.55  
7 RCW; adding a new chapter to Title 82 RCW; creating new sections;  
8 prescribing penalties; and providing an effective date.

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

10 **Part I**

11 **Capital Gains Tax**

12 NEW SECTION. **Sec. 101.** (1) The legislature finds that  
13 Washington is a great place to live, work, and raise a family. The  
14 legislature further finds that our tax system is the most upside down  
15 and regressive in the nation, allowing those who earn the most to pay  
16 the least in taxes. The legislature finds that as a percentage of  
17 personal income middle-income families pay two to four times in taxes  
18 as compared to top earners. Moreover, low-income Washingtonians pay  
19 seven times more in taxes than our wealthiest residents.

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

9 (3) The legislature finds that relying on higher property taxes  
10 to fund education is burdensome on working families; therefore, the  
11 legislature intends to ask the citizens of Washington to reduce the  
12 state property tax levy and replace it with the capital gains excise  
13 tax. The legislature finds that this will mitigate some of the  
14 imbalance in the state's tax structure and ensure everyone is paying  
15 their fair share.

16 NEW SECTION. **Sec. 102.** The definitions in this section apply  
17 throughout this chapter unless the context clearly requires  
18 otherwise.

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

24 (2) "Adjusted capital gain" means federal net long-term capital  
25 gain:

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

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

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

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

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

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

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

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

8 (i) Who is domiciled in this state during the taxable year,  
9 unless the individual (A) maintained no permanent place of abode in  
10 this state during the entire taxable year, (B) maintained a permanent  
11 place of abode outside of this state during the entire taxable year,  
12 and (C) spent in the aggregate not more than thirty days of the  
13 taxable year in this state; or

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

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

21 (c) An individual who is a resident under (a) of this subsection  
22 is a resident for that portion of a taxable year in which the  
23 individual was domiciled in this state or maintained a place of abode  
24 in this state.

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

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

29 (11) "Washington capital gains" means an individual's adjusted  
30 capital gains allocated to this state as provided in section 107 of  
31 this act, less:

32 (a) Twenty-five thousand dollars; or

33 (b) Fifty thousand dollars for individuals filing joint returns  
34 under this chapter.

35 NEW SECTION. **Sec. 103.** (1) Beginning January 1, 2019, a tax is  
36 imposed on all individuals for the privilege of selling or exchanging  
37 long-term capital assets, or receiving Washington capital gains. The  
38 tax equals seven percent multiplied by the individual's Washington  
39 capital gains.

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

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

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

16 NEW SECTION. **Sec. 104.** This chapter does not apply to the sale  
17 or exchange of:

18 (1) Any residential dwelling along with the land upon which the  
19 dwelling is located. For the purposes of this subsection (1),  
20 "residential dwelling" means property consisting solely of (a) a  
21 single-family residence, a residential condominium unit, or a  
22 residential cooperative unit, including any accessory dwelling unit  
23 associated with such residence or residential unit, (b) a multifamily  
24 residential building consisting of one or more common walls and fewer  
25 than four units, or (c) a floating home as defined in RCW 82.45.032;

26 (2) Assets held under a retirement savings account under Title 26  
27 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered  
28 annuity or custodial account described in Title 26 U.S.C. Sec. 403(b)  
29 of the internal revenue code, a deferred compensation plan under  
30 Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an  
31 individual retirement account or individual retirement annuity  
32 described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a  
33 Roth individual retirement account described in Title 26 U.S.C. Sec.  
34 408A of the internal revenue code, an employee defined contribution  
35 program, an employee defined benefit plan, or a similar retirement  
36 savings vehicle;

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

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

6 (5) Agricultural land by an individual who has regular,  
7 continuous, and substantial involvement in the operation of the  
8 agriculture that meets the criteria for material participation in an  
9 activity under Title 26 U.S.C. Sec. 469(h) of the internal revenue  
10 code for the ten years prior to the date of the sale or exchange of  
11 the agricultural land;

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

15 (7) Timber, timberland, or the receipt of Washington capital  
16 gains as dividends and distributions from real estate investment  
17 trusts derived from gains from the sale or exchange of timber.  
18 "Timber" means forest trees, standing or down, on privately or  
19 publicly owned land, and includes Christmas trees and short-rotation  
20 hardwoods. The sale or exchange of timber includes the cutting or  
21 disposal of timber qualifying for capital gains treatment under Title  
22 26 U.S.C. Sec. 631(a) or (b) of the internal revenue code.

23 NEW SECTION. **Sec. 105.** The tax imposed under this chapter is in  
24 addition to any other taxes imposed by the state or any of its  
25 political subdivisions, or a municipal corporation, with respect to  
26 the same sale or exchange, including the taxes imposed in or under  
27 the authority of chapter 82.04, 82.08, 82.12, 82.14, 82.45, or 82.46  
28 RCW.

29 NEW SECTION. **Sec. 106.** In computing tax, there may be deducted  
30 from the measure of tax amounts that the state is prohibited from  
31 taxing under the Constitution of this state or the Constitution or  
32 laws of the United States.

33 NEW SECTION. **Sec. 107.** (1) In computing tax under this chapter  
34 for a taxable year, a taxpayer may deduct from the measure of tax the  
35 amount of adjusted capital gain derived in the taxable year from the  
36 sale of substantially all of the fair market value of the assets of,

1 or the transfer of substantially all of the taxpayer's interest in, a  
2 qualified family-owned small business.

3 (2) For purposes of this section, the following definitions  
4 apply:

5 (a) "Assets" means real property and personal property, including  
6 tangible personal property and intangible property.

7 (b) "Family" means the same as "member of the family" in RCW  
8 83.100.046.

9 (c)(i) "Materially participated" means an individual was involved  
10 in the operation of a business on a basis that is regular,  
11 continuous, and substantial.

12 (ii) The term "materially participated" must be interpreted  
13 consistently with the applicable treasury regulations for section 469  
14 of the internal revenue code, to the extent that such interpretation  
15 does not conflict with any provision of this section.

16 (d) "Qualified family-owned small business" means a business:

17 (i) In which the taxpayer held a qualifying interest for at least  
18 eight years immediately preceding the sale or transfer described in  
19 subsection (1) of this section;

20 (ii) In which the taxpayer or his or her family member materially  
21 participated in operating the business for at least five of the eight  
22 years immediately preceding the sale or transfer described in  
23 subsection (1) of this section, unless such sale or transfer was to a  
24 qualified heir;

25 (iii)(A) That had no more than fifty full-time employees at any  
26 time during the twelve-month period immediately preceding the sale or  
27 transfer described in subsection (1) of this section.

28 (B) For purposes of this subsection (2)(d)(iii), "full-time  
29 employee" means an employee who is, or any combination of employees  
30 who are, paid by the business for at least one thousand eight hundred  
31 twenty hours of employment, including paid leave, for the twelve-  
32 month period described in (d)(iii)(A) of this subsection (2); and

33 (iv) That had worldwide gross revenue of seven million dollars or  
34 less in the twelve-month period immediately preceding the sale or  
35 transfer described in subsection (1) of this section.

36 (e) "Qualified heir" means a member of the taxpayer's family.

37 (f) "Qualifying interest" means:

38 (i) An interest as a proprietor in a business carried on as a  
39 sole proprietorship; or

40 (ii) An interest in a business if at least:

1 (A) Fifty percent of the business is owned, directly or  
2 indirectly, by the taxpayer and members of the taxpayer's family;

3 (B) Thirty percent of the business is owned, directly or  
4 indirectly, by the taxpayer and members of the taxpayer's family, and  
5 at least:

6 (I) Seventy percent of the business is owned, directly or  
7 indirectly, by members of two families; or

8 (II) Ninety percent of the business is owned, directly or  
9 indirectly, by members of three families.

10 (g) "Substantially all" means at least ninety percent.

11 NEW SECTION. **Sec. 108.** (1) For purposes of the tax imposed  
12 under this chapter, adjusted capital gains are allocated as follows:

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

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

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

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

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

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

34 (2)(a) A credit is allowed against the tax imposed in section 103  
35 of this act equal to the amount of any legally imposed income or  
36 excise tax paid by the taxpayer to another taxing jurisdiction on  
37 capital gains derived from capital assets within the other taxing  
38 jurisdiction to the extent such capital gains are included in the  
39 taxpayer's Washington capital gains. The amount of credit under this

1 subsection may not exceed the total amount of tax due under this  
2 chapter, and there is no carryback or carryforward of any unused  
3 credits.

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

9 NEW SECTION. **Sec. 109.** (1) Except as otherwise provided in this  
10 section or RCW 82.32.080, taxpayers owing tax under this chapter must  
11 file, on forms prescribed by the department, a return with the  
12 department on or before the date the taxpayer's federal income tax  
13 return for the taxable year is required to be filed.

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

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

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

28 (5) If a taxpayer has obtained an extension of time for filing  
29 the federal income tax return for the taxable year, the taxpayer is  
30 entitled to the same extension of time for filing the return required  
31 under this section if the taxpayer provides the department, before  
32 the due date provided in subsection (1) of this section, the  
33 extension confirmation number or other evidence satisfactory to the  
34 department confirming the federal extension. An extension under this  
35 subsection for the filing of a return under this chapter is not an  
36 extension of time to pay the tax due under this chapter.

37 (6)(a) If any return due under subsection (1) of this section,  
38 along with a copy of the federal income tax return, is not filed with  
39 the department by the due date or any extension granted by the



1 department, the department must assess a penalty in the amount of  
2 five percent of the tax due for the taxable year covered by the  
3 return for each month or portion of a month that the return remains  
4 unfiled. The total penalty assessed under this subsection may not  
5 exceed twenty-five percent of the tax due for the taxable year  
6 covered by the delinquent return. The penalty under this subsection  
7 is in addition to any penalties assessed for the late payment of any  
8 tax due on the return.

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

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

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

16 NEW SECTION. **Sec. 110.** (1) If the federal income tax  
17 liabilities of both spouses are determined on a joint federal return  
18 for the taxable year, they must file a joint return under this  
19 chapter.

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

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

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

32 (b) The department determines that the domestic partner qualifies  
33 for relief as provided by rule of the department. Such rule, to the  
34 extent possible without being inconsistent with this chapter, must  
35 follow Title 26 U.S.C. Sec. 6015.

36 NEW SECTION. **Sec. 111.** To the extent not inconsistent with the  
37 provisions of this chapter, the following statutes apply to the  
38 administration of taxes imposed under this chapter: RCW 82.32.050,

1 82.32.055, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090,  
2 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130,  
3 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190,  
4 82.32.200, 82.32.210, 82.32.212, 82.32.220, 82.32.230, 82.32.235,  
5 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310,  
6 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410,  
7 82.32.805, 82.32.808, and section 115 of this act.

8 NEW SECTION. **Sec. 112.** (1) Any taxpayer who knowingly attempts  
9 to evade payment of the tax imposed under this chapter is guilty of a  
10 class C felony as provided in chapter 9A.20 RCW.

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

14 NEW SECTION. **Sec. 113.** All revenue from taxes collected under  
15 this chapter, including penalties and interest on such taxes, must be  
16 deposited in the education legacy trust account created in RCW  
17 83.100.230.

18 NEW SECTION. **Sec. 114.** Notwithstanding any common law rule of  
19 strict construction of statutes imposing taxes, this chapter, being  
20 necessary for the welfare of the state and its inhabitants, must be  
21 liberally construed in support of application of the tax.

22 NEW SECTION. **Sec. 115.** A new section is added to chapter 82.04  
23 RCW to read as follows:

24 A deduction is allowed against a person's gross income of the  
25 business to the extent necessary to avoid taxing the same amounts  
26 under this chapter and section 103 of this act.

27 NEW SECTION. **Sec. 116.** A new section is added to chapter 82.32  
28 RCW to read as follows:

29 (1) The department may enter into reciprocal tax collection  
30 agreements with the taxing officials of any other state imposing a  
31 specified tax. Agreements authorized under this section must require  
32 each state to offset delinquent specified taxes owed by a taxpayer to  
33 one party to the agreement, including any associated penalties,  
34 interest, or other additions, against refunds of overpaid specified  
35 taxes owed to the taxpayer by the other party to the agreement. Such

1 agreements may also include provisions governing the sharing of  
2 information relevant to the administration of specified taxes.  
3 However, the department may not share return or tax information with  
4 other states except as allowed under RCW 82.32.330. Likewise, the  
5 department may not share federal tax information with other states  
6 without the express written consent of the internal revenue service.

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

9 (a) "Specified taxes" means generally applicable state and local  
10 sales taxes and use taxes, broad-based state gross receipts taxes,  
11 state income taxes, and stand-alone state taxes on capital gains or  
12 interest and dividends. "Specified taxes" include, but are not  
13 limited to, the taxes imposed in or under the authority of chapters  
14 82.04, 82.08, 82.12, 82.14, 82.16, and 82.--- RCW (the new chapter  
15 created in section 403 of this act), and similar taxes imposed by  
16 another state. For purposes of this subsection (2)(a), "gross  
17 receipts tax," "income tax," "sales tax," and "use tax" have the same  
18 meanings as provided in RCW 82.56.010.

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

20 **Part II**  
21 **Use of Tax Revenue**

22 NEW SECTION. **Sec. 201.** A new section is added to chapter 84.55  
23 RCW to read as follows:

24 (1) By December 1st of each year, the department must calculate  
25 the revenue collected during the most recently completed fiscal year  
26 from the tax imposed by section 103 of this act.

27 (2) By December 31st of each year, the department must estimate  
28 the amount needed to fund the senior citizen property tax exemption  
29 authorized in part III of this act. By December 1st of each year,  
30 each county assessor must submit any necessary data to the department  
31 in order to complete this estimate.

32 (3) By December 31st of each year, the department must calculate  
33 the amount of revenue remaining from the tax imposed by section 103  
34 of this act as calculated in subsection (1) of this section after  
35 deducting the amount determined in subsection (2) of this section.

36 (4) By December 31st of each year, the department must reduce in  
37 the property tax rate imposed by RCW 84.52.065(2)(a) to the extent  
38 necessary to reduce state property tax collections for the next

1 succeeding calendar year by the amount determined in subsection (1)  
2 of this section for the most recently completed fiscal year.

3 **Sec. 202.** RCW 84.55.010 and 2017 3rd sp.s. c 13 s 302 are each  
4 amended to read as follows:

5 (1) Except as provided in this chapter, the levy for a taxing  
6 district in any year must be set so that the regular property taxes  
7 payable in the following year do not exceed the limit factor  
8 multiplied by the amount of regular property taxes lawfully levied  
9 for such district in the highest of the three most recent years in  
10 which such taxes were levied for such district plus an additional  
11 dollar amount calculated by multiplying the regular property tax levy  
12 rate of that district for the preceding year by the increase in  
13 assessed value in that district resulting from:

14 (a) New construction;

15 (b) Increases in assessed value due to construction of wind  
16 turbine, solar, biomass, and geothermal facilities, if such  
17 facilities generate electricity and the property is not included  
18 elsewhere under this section for purposes of providing an additional  
19 dollar amount. The property may be classified as real or personal  
20 property;

21 (c) Improvements to property; and

22 (d) Any increase in the assessed value of state-assessed  
23 property.

24 (2) The requirements of this section do not apply to:

25 (a) State property taxes levied under RCW 84.52.065(1) for  
26 collection in calendar years 2019 through 2021; and

27 (b) State property taxes levied under RCW 84.52.065(2) for  
28 collection in calendar years 2018 through 2021.

29 (3) For the purposes of determining the levy limit under this  
30 section for a state property tax levy, the highest amount of regular  
31 property taxes levied in the three most recent years must be  
32 determined as if no reduction is made pursuant to section 201 of this  
33 act.

34 **Part III**  
35 **Property Tax Relief**

36 NEW SECTION. **Sec. 301.** The legislature intends to provide tax  
37 relief to senior citizens, disabled persons, and veterans in this

1 part. The legislature recognizes that property taxes impose a  
2 substantial financial burden on those with fixed incomes and that  
3 property tax relief programs have considerable value in addressing  
4 this burden. It is the legislature's intent to establish a mechanism  
5 for adjusting income thresholds into the future.

6 **Sec. 302.** RCW 84.36.381 and 2017 3rd sp.s. c 13 s 311 are each  
7 amended to read as follows:

8 A person is exempt from any legal obligation to pay all or a  
9 portion of the amount of excess and regular real property taxes due  
10 and payable in the year following the year in which a claim is filed,  
11 and thereafter, in accordance with the following:

12 (1) The property taxes must have been imposed upon a residence  
13 which was occupied by the person claiming the exemption as a  
14 principal place of residence as of the time of filing. However, any  
15 person who sells, transfers, or is displaced from his or her  
16 residence may transfer his or her exemption status to a replacement  
17 residence, but no claimant may receive an exemption on more than one  
18 residence in any year. Moreover, confinement of the person to a  
19 hospital, nursing home, assisted living facility, or adult family  
20 home does not disqualify the claim of exemption if:

21 (a) The residence is temporarily unoccupied;

22 (b) The residence is occupied by a spouse or a domestic partner  
23 and/or a person financially dependent on the claimant for support; or

24 (c) The residence is rented for the purpose of paying nursing  
25 home, hospital, assisted living facility, or adult family home costs;

26 (2) The person claiming the exemption must have owned, at the  
27 time of filing, in fee, as a life estate, or by contract purchase,  
28 the residence on which the property taxes have been imposed or if the  
29 person claiming the exemption lives in a cooperative housing  
30 association, corporation, or partnership, such person must own a  
31 share therein representing the unit or portion of the structure in  
32 which he or she resides. For purposes of this subsection, a residence  
33 owned by a marital community or state registered domestic partnership  
34 or owned by cotenants is deemed to be owned by each spouse or each  
35 domestic partner or each cotenant, and any lease for life is deemed a  
36 life estate;

37 (3)(a) The person claiming the exemption must be:

38 (i) Sixty-one years of age or older on December 31st of the year  
39 in which the exemption claim is filed, or must have been, at the time

1 of filing, retired from regular gainful employment by reason of  
2 disability; or

3 (ii) A veteran of the armed forces of the United States entitled  
4 to and receiving compensation from the United States department of  
5 veterans affairs at a total disability rating for a service-connected  
6 disability.

7 (b) However, any surviving spouse or surviving domestic partner  
8 of a person who was receiving an exemption at the time of the  
9 person's death will qualify if the surviving spouse or surviving  
10 domestic partner is fifty-seven years of age or older and otherwise  
11 meets the requirements of this section;

12 (4) The amount that the person is exempt from an obligation to  
13 pay is calculated on the basis of combined disposable income, as  
14 defined in RCW 84.36.383. If the person claiming the exemption was  
15 retired for two months or more of the assessment year, the combined  
16 disposable income of such person must be calculated by multiplying  
17 the average monthly combined disposable income of such person during  
18 the months such person was retired by twelve. If the income of the  
19 person claiming exemption is reduced for two or more months of the  
20 assessment year by reason of the death of the person's spouse or the  
21 person's domestic partner, or when other substantial changes occur in  
22 disposable income that are likely to continue for an indefinite  
23 period of time, the combined disposable income of such person must be  
24 calculated by multiplying the average monthly combined disposable  
25 income of such person after such occurrences by twelve. If it is  
26 necessary to estimate income to comply with this subsection, the  
27 assessor may require confirming documentation of such income prior to  
28 May 31 of the year following application;

29 (5)(a) A person who otherwise qualifies under this section and  
30 has a combined disposable income (~~(of forty thousand dollars or~~  
31 ~~less)) equal or less than income threshold 3 is exempt from all  
32 excess property taxes and the additional state property tax imposed  
33 under RCW 84.52.065(2); and~~

34 (b)(i) A person who otherwise qualifies under this section and  
35 has a combined disposable income (~~(of thirty-five thousand dollars or~~  
36 ~~less but greater than thirty thousand dollars)) equal to or less than  
37 income threshold 2 but greater than income threshold 1 is exempt from  
38 all regular property taxes on the greater of fifty thousand dollars  
39 or thirty-five percent of the valuation of his or her residence, but~~

1 not to exceed seventy thousand dollars of the valuation of his or her  
2 residence; or

3 (ii) A person who otherwise qualifies under this section and has  
4 a combined disposable income (~~(of thirty thousand dollars or less)~~)  
5 equal to or less than income threshold 1 is exempt from all regular  
6 property taxes on the greater of sixty thousand dollars or sixty  
7 percent of the valuation of his or her residence;

8 (6)(a) For a person who otherwise qualifies under this section  
9 and has a combined disposable income (~~(of forty thousand dollars or~~  
10 ~~less)~~) equal or less than income threshold 3, the valuation of the  
11 residence is the assessed value of the residence on the later of  
12 January 1, 1995, or January 1st of the assessment year the person  
13 first qualifies under this section. If the person subsequently fails  
14 to qualify under this section only for one year because of high  
15 income, this same valuation must be used upon requalification. If the  
16 person fails to qualify for more than one year in succession because  
17 of high income or fails to qualify for any other reason, the  
18 valuation upon requalification is the assessed value on January 1st  
19 of the assessment year in which the person requalifies. If the person  
20 transfers the exemption under this section to a different residence,  
21 the valuation of the different residence is the assessed value of the  
22 different residence on January 1st of the assessment year in which  
23 the person transfers the exemption.

24 (b) In no event may the valuation under this subsection be  
25 greater than the true and fair value of the residence on January 1st  
26 of the assessment year.

27 (c) This subsection does not apply to subsequent improvements to  
28 the property in the year in which the improvements are made.  
29 Subsequent improvements to the property must be added to the value  
30 otherwise determined under this subsection at their true and fair  
31 value in the year in which they are made.

32 **Sec. 303.** RCW 84.36.383 and 2012 c 10 s 74 are each amended to  
33 read as follows:

34 As used in RCW 84.36.381 through 84.36.389, (~~(except where the~~  
35 ~~context clearly indicates a different meaning)~~) unless the context  
36 clearly requires otherwise:

37 (1) The term "residence" means a single-family dwelling unit  
38 whether such unit be separate or part of a multiunit dwelling,  
39 including the land on which such dwelling stands not to exceed one

1 acre, except that a residence includes any additional property up to  
2 a total of five acres that comprises the residential parcel if this  
3 larger parcel size is required under land use regulations. The term  
4 also includes a share ownership in a cooperative housing association,  
5 corporation, or partnership if the person claiming exemption can  
6 establish that his or her share represents the specific unit or  
7 portion of such structure in which he or she resides. The term also  
8 includes a single-family dwelling situated upon lands the fee of  
9 which is vested in the United States or any instrumentality thereof  
10 including an Indian tribe or in the state of Washington, and  
11 notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a  
12 residence is deemed real property.

13 (2) The term "real property" also includes a mobile home which  
14 has substantially lost its identity as a mobile unit by virtue of its  
15 being fixed in location upon land owned or leased by the owner of the  
16 mobile home and placed on a foundation (posts or blocks) with fixed  
17 pipe, connections with sewer, water, or other utilities. A mobile  
18 home located on land leased by the owner of the mobile home is  
19 subject, for tax billing, payment, and collection purposes, only to  
20 the personal property provisions of chapter 84.56 RCW and RCW  
21 84.60.040.

22 (3) "Department" means the state department of revenue.

23 (4) "Combined disposable income" means the disposable income of  
24 the person claiming the exemption, plus the disposable income of his  
25 or her spouse or domestic partner, and the disposable income of each  
26 cotenant occupying the residence for the assessment year, less  
27 amounts paid by the person claiming the exemption or his or her  
28 spouse or domestic partner during the assessment year for:

29 (a) Drugs supplied by prescription of a medical practitioner  
30 authorized by the laws of this state or another jurisdiction to issue  
31 prescriptions;

32 (b) The treatment or care of either person received in the home  
33 or in a nursing home, assisted living facility, or adult family home;  
34 and

35 (c) Health care insurance premiums for medicare under Title XVIII  
36 of the social security act.

37 (5) "Disposable income" means adjusted gross income as defined in  
38 the federal internal revenue code, as amended prior to January 1,  
39 1989, or such subsequent date as the director may provide by rule  
40 consistent with the purpose of this section, plus all of the



1 following items to the extent they are not included in or have been  
2 deducted from adjusted gross income:

3 (a) Capital gains, other than gain excluded from income under  
4 section 121 of the federal internal revenue code to the extent it is  
5 reinvested in a new principal residence;

6 (b) Amounts deducted for loss;

7 (c) Amounts deducted for depreciation;

8 (d) Pension and annuity receipts;

9 (e) Military pay and benefits other than attendant-care and  
10 medical-aid payments;

11 (f) Veterans benefits, other than:

12 (i) Attendant-care payments;

13 (ii) Medical-aid payments;

14 (iii) Disability compensation, as defined in Title 38, part 3,  
15 section 3.4 of the code of federal regulations, as of January 1,  
16 2008; and

17 (iv) Dependency and indemnity compensation, as defined in Title  
18 38, part 3, section 3.5 of the code of federal regulations, as of  
19 January 1, 2008;

20 (g) Federal social security act and railroad retirement benefits;

21 (h) Dividend receipts; and

22 (i) Interest received on state and municipal bonds.

23 (6) "Cotenant" means a person who resides with the person  
24 claiming the exemption and who has an ownership interest in the  
25 residence.

26 (7) "Disability" has the same meaning as provided in 42 U.S.C.  
27 Sec. 423(d)(1)(A) as amended prior to January 1, 2005, or such  
28 subsequent date as the department may provide by rule consistent with  
29 the purpose of this section.

30 (8) "Income threshold 1" means:

31 (a) For taxes levied for collection in calendar years prior to  
32 2021, a combined disposable income equal to thirty thousand dollars;  
33 and

34 (b) For taxes levied for collection in calendar year 2021 and  
35 thereafter, a combined disposable income equal to the greater of  
36 "income threshold 1" for the previous year or forty-five percent of  
37 the county median household income, adjusted every five years  
38 beginning January 1, 2021, as provided in RCW 84.36.385(7).

39 (9) "Income threshold 2" means:

1 (a) For taxes levied for collection in calendar years prior to  
2 2021, a combined disposable income equal to thirty-five thousand  
3 dollars; and

4 (b) For taxes levied for collection in calendar year 2021 and  
5 thereafter, a combined disposable income equal to the greater of  
6 "income threshold 2" for the previous year or fifty-five percent of  
7 the county median household income, adjusted every five years  
8 beginning January 1, 2021, as provided in RCW 84.36.385(7).

9 (10) "Income threshold 3" means:

10 (a) For taxes levied for collection in calendar years prior to  
11 2021, a combined disposable income equal to forty thousand dollars;  
12 and

13 (b) For taxes levied for collection in calendar year 2021 and  
14 thereafter, a combined disposable income equal to the greater of  
15 "income threshold 3" for the previous year or sixty-five percent of  
16 the county median household income, adjusted every five years  
17 beginning January 1, 2021, as provided in RCW 84.36.385(7).

18 (11) "County median household income" means the median household  
19 income estimates for the state of Washington by county of the legal  
20 address of the principal place of residence, as published by the  
21 office of financial management.

22 **Sec. 304.** RCW 84.36.385 and 2011 c 174 s 106 are each amended to  
23 read as follows:

24 (1) A claim for exemption under RCW 84.36.381 as now or hereafter  
25 amended, may be made and filed at any time during the year for  
26 exemption from taxes payable the following year and thereafter and  
27 solely upon forms as prescribed and furnished by the department of  
28 revenue. However, an exemption from tax under RCW 84.36.381 continues  
29 for no more than six years unless a renewal application is filed as  
30 provided in subsection (3) of this section.

31 (2) A person granted an exemption under RCW 84.36.381 must inform  
32 the county assessor of any change in status affecting the person's  
33 entitlement to the exemption on forms prescribed and furnished by the  
34 department of revenue.

35 (3) Each person exempt from taxes under RCW 84.36.381 in 1993 and  
36 thereafter((~~7~~)) must file with the county assessor a renewal  
37 application not later than December 31 of the year the assessor  
38 notifies such person of the requirement to file the renewal

1 application. Renewal applications must be on forms prescribed and  
2 furnished by the department of revenue.

3 (4) At least once every six years, the county assessor must  
4 notify those persons receiving an exemption from taxes under RCW  
5 84.36.381 of the requirement to file a renewal application. The  
6 county assessor may also require a renewal application following an  
7 amendment of the income requirements set forth in RCW 84.36.381.

8 (5) If the assessor finds that the applicant does not meet the  
9 qualifications as set forth in RCW 84.36.381, as now or hereafter  
10 amended, the claim or exemption must be denied but such denial is  
11 subject to appeal under the provisions of RCW 84.48.010 and in  
12 accordance with the provisions of RCW 84.40.038. If the applicant had  
13 received exemption in prior years based on erroneous information, the  
14 taxes must be collected subject to penalties as provided in RCW  
15 84.40.130 for a period of not to exceed five years.

16 (6) The department and each local assessor is hereby directed to  
17 publicize the qualifications and manner of making claims under RCW  
18 84.36.381 through 84.36.389, through communications media, including  
19 such paid advertisements or notices as it deems appropriate. Notice  
20 of the qualifications, method of making applications, the penalties  
21 for not reporting a change in status, and availability of further  
22 information must be included on or with property tax statements and  
23 revaluation notices for all residential property including mobile  
24 homes, except rental properties.

25 (7) Beginning on January 1, 2020, and every fifth year  
26 thereafter, the department must publish updated income thresholds.  
27 The adjusted thresholds must be rounded to the nearest one dollar. If  
28 the income threshold adjustment is negative, the income threshold for  
29 the prior year continues to apply. The department must adjust income  
30 thresholds for each county to reflect the most recent year available  
31 of estimated county median household incomes, including preliminary  
32 estimates or projections, as published by the office of financial  
33 management. For the purposes of this subsection, "county median  
34 household income" has the same meaning as in RCW 84.36.383.

35 **Sec. 305.** RCW 84.38.020 and 2006 c 62 s 2 are each amended to  
36 read as follows:

37 ~~((Unless a different meaning is plainly required by the context,~~  
38 ~~the following words and phrases as hereinafter used in this chapter~~  
39 ~~shall have the following meanings:)) The definitions in this section~~

1 apply throughout this chapter unless the context clearly requires  
2 otherwise.

3 (1)(a) "Claimant" means a person who either elects or is required  
4 under RCW 84.64.050 to defer payment of the special assessments  
5 and/or real property taxes accrued on the claimant's residence by  
6 filing a declaration to defer as provided by this chapter.

7 (b) When two or more individuals of a household file or seek to  
8 file a declaration to defer, they may determine between them as to  
9 who the claimant (~~shall be~~) is.

10 (2) (~~"Department" means the state department of revenue.~~

11 ~~(3))~~ "Equity value" means the amount by which the fair market  
12 value of a residence as determined from the records of the county  
13 assessor exceeds the total amount of any liens or other obligations  
14 against the property.

15 (3) "Income threshold" means:

16 (a) For taxes levied for collection in calendar years prior to  
17 2020, a combined disposable income equal to forty-five thousand  
18 dollars; and

19 (b) For taxes levied for collection in calendar year 2020 or  
20 thereafter, a combined disposable income equal to the greater of the  
21 "income threshold" for the previous year, or seventy-five percent of  
22 the county median household income, adjusted every five years  
23 beginning January 1, 2020, as provided in RCW 84.36.385(7).

24 (4) "Local government" means any city, town, county, water-sewer  
25 district, public utility district, port district, irrigation  
26 district, flood control district, or any other municipal corporation,  
27 quasi-municipal corporation, or other political subdivision  
28 authorized to levy special assessments.

29 (5) "Real property taxes" means ad valorem property taxes levied  
30 on a residence in this state in the preceding calendar year.

31 (6) "Residence" has the meaning given in RCW 84.36.383.

32 (7) "Special assessment" means the charge or obligation imposed  
33 by a local government upon property specially benefited.

34 **Sec. 306.** RCW 84.38.030 and 2015 3rd sp.s. c 30 s 3 and 2015 c  
35 86 s 313 are each reenacted and amended to read as follows:

36 A claimant may defer payment of special assessments and/or real  
37 property taxes on up to eighty percent of the amount of the  
38 claimant's equity value in the claimant's residence if the following  
39 conditions are met:

1 (1) The claimant must meet all requirements for an exemption for  
2 the residence under RCW 84.36.381, other than the age and income  
3 limits under RCW 84.36.381.

4 (2) The claimant must be sixty years of age or older on December  
5 31st of the year in which the deferral claim is filed, or must have  
6 been, at the time of filing, retired from regular gainful employment  
7 by reason of disability as defined in RCW 84.36.383. However, any  
8 surviving spouse or surviving domestic partner of a person who was  
9 receiving a deferral at the time of the person's death qualifies if  
10 the surviving spouse or surviving domestic partner is fifty-seven  
11 years of age or older and otherwise meets the requirements of this  
12 section.

13 (3) The claimant must have a combined disposable income, as  
14 defined in RCW 84.36.383, (~~of forty five thousand dollars or less~~)  
15 equal to or less than the income threshold.

16 (4) The claimant must have owned, at the time of filing, the  
17 residence on which the special assessment and/or real property taxes  
18 have been imposed. For purposes of this subsection, a residence owned  
19 by a marital community, owned by domestic partners, or owned by  
20 cotenants is deemed to be owned by each spouse, each domestic  
21 partner, or each cotenant. A claimant who has only a share ownership  
22 in cooperative housing, a life estate, a lease for life, or a  
23 revocable trust does not satisfy the ownership requirement.

24 (5) The claimant must have and keep in force fire and casualty  
25 insurance in sufficient amount to protect the interest of the state  
26 in the claimant's equity value. However, if the claimant fails to  
27 keep fire and casualty insurance in force to the extent of the  
28 state's interest in the claimant's equity value, the amount deferred  
29 may not exceed one hundred percent of the claimant's equity value in  
30 the land or lot only.

31 (6) In the case of special assessment deferral, the claimant must  
32 have opted for payment of such special assessments on the installment  
33 method if such method was available.

#### 34 **Part IV**

#### 35 **Miscellaneous Provisions**

36 NEW SECTION. **Sec. 401.** This act is not subject to the  
37 requirements provided in RCW 82.32.805 and 82.32.808.

1        NEW SECTION.    **Sec. 402.**    Parts II and III of this act apply for  
2 taxes levied for collection in 2021 and thereafter.

3        NEW SECTION.    **Sec. 403.**    Sections 101 through 114 of this act  
4 constitute a new chapter in Title 82 RCW.

5        NEW SECTION.    **Sec. 404.**    If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9        NEW SECTION.    **Sec. 405.**    This act takes effect January 1, 2019.

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