

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5358

65th Legislature
2017 Regular Session

Passed by the Senate April 13, 2017
Yeas 48 Nays 1

President of the Senate

Passed by the House April 11, 2017
Yeas 96 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5358** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5358

AS AMENDED BY THE HOUSE

Passed Legislature - 2017 Regular Session

State of Washington 65th Legislature 2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Schoesler and Ranker)

READ FIRST TIME 02/10/17.

1 AN ACT Relating to improving tax and licensing laws administered
2 by the department of revenue, but not including changes to tax laws
3 that are estimated to affect state or local tax collections as
4 reflected in any fiscal note prepared and approved under the process
5 established in chapter 43.88A RCW; amending RCW 54.28.040, 54.28.050,
6 54.28.055, 82.32.105, 82.32.350, 82.04.040, 82.04.190, 82.32.670,
7 82.04.261, 82.04.334, 82.04.43391, 82.32.030, 84.41.041, 35.102.130,
8 82.04.060, 82.04.190, 82.04.192, 82.04.257, 82.04.258, 82.08.02082,
9 82.08.02088, 82.12.010, 82.12.020, 82.12.02082, 82.12.02088,
10 82.12.0259, 82.12.035, 82.12.040, 82.12.860, 82.14.457, 82.04.4277,
11 84.12.270, 84.12.330, 84.16.040, 84.16.090, 83.100.050, 19.02.115,
12 82.01.060, and 84.33.089; amending 2015 3rd sp.s. c 30 s 1, and 2015
13 3rd sp.s. c 6 ss 2301, 2303, and 801 (uncodified); amending 2015 3rd
14 sp.s. c 30 s 1, and 2015 3rd sp.s. c 6 ss 2301, 2303, and 801
15 (uncodified); reenacting and amending RCW 84.34.108 and 82.32.790;
16 reenacting RCW 82.04.280; adding a new section to chapter 54.28 RCW;
17 adding a new section to chapter 84.08 RCW; repealing RCW 54.28.030
18 and 82.04.4483; repealing 2010 c 106 s 206, 2009 c 461 s 3, 2006 c
19 300 s 7, and 2003 c 149 s 4; creating new sections; and providing
20 effective dates.

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

PART I

Providing reasonable tools for the effective administration of the
public utility district privilege tax

NEW SECTION. **Sec. 101.** A new section is added to chapter 54.28 RCW to read as follows:

(1) The following provisions of chapter 82.32 RCW apply with respect to the state taxes administered by the department of revenue under this chapter, unless the context clearly requires otherwise: RCW 82.32.050, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130, 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210, 82.32.235, 82.32.237, 82.32.240, 82.32.270, 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410, and any other provision of chapter 82.32 RCW specifically referenced in the statutes listed in this subsection (1).

(2) Chapter 82.32 RCW also applies with respect to the state taxes administered by the department of revenue under this chapter to the extent provided in any other provision of law.

(3) The definitions in this chapter have full force and application with respect to the application of chapter 82.32 RCW to this chapter unless the context clearly requires otherwise.

NEW SECTION. **Sec. 102.** RCW 54.28.030 (Districts' report to department of revenue) and 1977 ex.s. c 366 s 3, 1975 1st ex.s. c 278 s 30, 1959 c 274 s 3, & 1957 c 278 s 3 are each repealed.

Sec. 103. RCW 54.28.040 and 1996 c 149 s 16 are each amended to read as follows:

(1) Before May 1st of each calendar year through calendar year 2018, the department of revenue ((shall)) must compute the tax imposed by this chapter for the last preceding calendar year and notify the district of the amount thereof, which shall be payable on or before the following June 1st.

~~(2) ((If payment of any tax is not received by the department on or before the due date, there shall be assessed a penalty of five percent of the amount of the tax; if the tax is not received within one month of the due date, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received~~

1 ~~within two months of the due date, there shall be assessed a total~~
2 ~~penalty of twenty percent of the amount of the tax.~~

3 ~~(3))~~ For tax reporting periods beginning on or after January 1,
4 2018, taxpayers must report the taxes due under RCW 54.28.020 and
5 54.28.025 on returns as prescribed by the department of revenue.
6 Except as otherwise provided in this subsection (2), taxes imposed in
7 RCW 54.28.020 and 54.28.025 are due for a taxpayer at the same time
8 as the taxpayer's payment of taxes imposed under chapters 82.04 and
9 82.16 RCW. The department of revenue may allow taxpayers to report
10 and pay the taxes due under RCW 54.28.020 and 54.28.025 on an annual
11 basis, even if they report taxes imposed under chapters 82.04 and
12 82.16 RCW more frequently than annually. In such cases, the taxes
13 imposed in RCW 54.28.020 and 54.28.025 are due at the same time as
14 the taxes under chapters 82.04 and 82.16 RCW for the taxpayer's final
15 reporting period for the calendar year.

16 (3) The department of revenue may require persons to report such
17 information as needed by the department to administer this chapter.

18 (4) Upon receipt of the amount of each tax imposed the department
19 of revenue shall deposit the same with the state treasurer, who
20 ((shall)) must deposit four percent of the revenues received under
21 RCW 54.28.020(1) and 54.28.025(1) and all revenues received under RCW
22 54.28.020(2) and 54.28.025(2) in the general fund of the state and
23 ((shall)) must distribute the remainder in the manner hereinafter set
24 forth. The state treasurer ((shall)) must send a duplicate copy of
25 each transmittal to the department of revenue.

26 **Sec. 104.** RCW 54.28.050 and 1982 1st ex.s. c 35 s 21 are each
27 amended to read as follows:

28 ~~((After computing the tax imposed by RCW 54.28.020(1),))~~ (1)
29 Except as provided in subsection (2) of this section, the department
30 of revenue ((shall)) must instruct the state treasurer, after placing
31 thirty-seven and six-tenths percent of the taxes collected under RCW
32 54.28.020(1) in the state general fund to be dedicated for the
33 benefit of the public schools, to distribute the balance collected
34 under RCW 54.28.020(1)(a) to each county in proportion to the gross
35 revenue from sales made within each county; and to distribute the
36 balance collected under RCW 54.28.020(1) (b) and (c) as follows:

37 (a) If the entire generating facility, including reservoir, if
38 any, is in a single county then all of the balance to the county
39 where such generating facility is located((-));

1 **(b)** If any reservoir is in more than one county, then to each
2 county in which the reservoir or any portion thereof is located a
3 percentage equal to the percentage determined by dividing the total
4 cost of the generating facilities, including adjacent switching
5 facilities, into twice the cost of land and land rights acquired for
6 any reservoir within each county, land and land rights to be defined
7 the same as used by the federal (~~power—commission~~) energy
8 regulatory commission.

9 **(c)** If the powerhouse and dam, if any, in connection with such
10 reservoir are in more than one county, the balance (~~shall~~) must be
11 divided sixty percent to the county in which the owning district is
12 located and forty percent to the other county or counties or if
13 (~~said~~) the powerhouse and dam, if any, are owned by a joint
14 operating agency organized under chapter 43.52 RCW, or by more than
15 one district or are outside the county of the owning district, then
16 to be divided equally between the counties in which such facilities
17 are located. If all of the powerhouse and dam, if any, are in one
18 county, then the balance (~~shall~~) must be distributed to the county
19 in which the facilities are located.

20 **(2)** The department of revenue must instruct the state treasurer
21 to adjust distributions under this section, in whole or in part, to
22 account for each county's proportionate share of amounts previously
23 distributed under this section and subsequently refunded to a public
24 utility district under RCW 82.32.060.

25 **(3)** The provisions of this section (~~shall~~) do not apply to the
26 distribution of taxes collected under RCW 54.28.025.

27 **Sec. 105.** RCW 54.28.055 and 1986 c 189 s 1 are each amended to
28 read as follows:

29 **(1)** (~~After computing the tax imposed by RCW 54.28.025(1))~~
30 Except as provided in subsection (3) of this section, the department
31 of revenue (~~shall~~) must instruct the state treasurer to distribute
32 the amount collected under RCW 54.28.025(1) as follows:

33 **(a)** Fifty percent to the state general fund for the support of
34 schools; and

35 **(b)** Twenty-two percent to the counties, twenty-three percent to
36 the cities, three percent to the fire protection districts, and two
37 percent to the library districts.

38 **(2)** Each county, city, fire protection district, and library
39 district (~~shall~~) must receive a percentage of the amount for

1 distribution to counties, cities, fire protection districts, and
2 library districts, respectively, in the proportion that the
3 population of such district residing within the impacted area bears
4 to the total population of all such districts residing within the
5 impacted area. For the purposes of this chapter, the term "library
6 district" includes only regional libraries (~~as defined in RCW~~
7 ~~27.12.010(4)~~), rural county library districts (~~as defined in RCW~~
8 ~~27.12.010(5)~~), intercounty rural library districts (~~as defined in~~
9 ~~RCW 27.12.010(6)~~), and island library districts as those terms are
10 defined in RCW 27.12.010(~~(7)~~). The population of a library
11 district, for purposes of such a distribution, (~~shall~~) does not
12 include any population within the library district and the impact
13 area that also is located within a city or town.

14 (3) Distributions under this section must be adjusted as follows:

15 (a) If any distribution pursuant to subsection (1)(b) of this
16 section cannot be made, then that share (~~shall~~) must be prorated
17 among the state and remaining local districts.

18 (b) The department of revenue must instruct the state treasurer
19 to adjust distributions under this section, in whole or in part, to
20 account for each county's, city's, fire protection district's, and
21 library district's proportionate share of amounts previously
22 distributed under this section and subsequently refunded to a public
23 utility district under RCW 82.32.060.

24 (4) All distributions directed by this section to be made on the
25 basis of population (~~shall~~) must be calculated in accordance with
26 (~~data to be provided~~) population data as last determined by the
27 office of financial management.

28 **Sec. 106.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to
29 read as follows:

30 (1) If the department (~~of revenue~~) finds that the payment by a
31 taxpayer of a tax less than that properly due or the failure of a
32 taxpayer to pay any tax by the due date was the result of
33 circumstances beyond the control of the taxpayer, the department (~~of~~
34 ~~revenue shall~~) must waive or cancel any penalties imposed under this
35 chapter with respect to such tax.

36 (2) The department (~~shall~~) must waive or cancel the penalty
37 imposed under RCW 82.32.090(1) when the circumstances under which the
38 delinquency occurred do not qualify for waiver or cancellation under
39 subsection (1) of this section if:

1 (a) The taxpayer requests the waiver for a tax return required to
2 be filed under RCW 54.28.040, 82.32.045, 82.14B.061, 82.23B.020,
3 82.27.060, 82.29A.050, or 84.33.086; and

4 (b) The taxpayer has timely filed and remitted payment on all tax
5 returns due for that tax program for a period of twenty-four months
6 immediately preceding the period covered by the return for which the
7 waiver is being requested.

8 (3) The department (~~shall~~) must waive or cancel interest
9 imposed under this chapter if:

10 (a) The failure to timely pay the tax was the direct result of
11 written instructions given the taxpayer by the department; or

12 (b) The extension of a due date for payment of an assessment of
13 deficiency was not at the request of the taxpayer and was for the
14 sole convenience of the department.

15 (4) The department (~~of revenue shall~~) must adopt rules for the
16 waiver or cancellation of penalties and interest imposed by this
17 chapter.

18 **Sec. 107.** RCW 82.32.350 and 1971 ex.s. c 299 s 23 are each
19 amended to read as follows:

20 The department may enter into an agreement in writing with any
21 person relating to the liability of such person in respect of any tax
22 imposed by any of the preceding chapters of this title, or any tax in
23 respect to which this section is specifically made applicable, for
24 any taxable period or periods.

25 NEW SECTION. **Sec. 108.** Section 102 of this act does not apply
26 with respect to reports due under RCW 54.28.030 in calendar year 2018
27 or any preceding calendar year.

28 NEW SECTION. **Sec. 109.** The repeal in section 102 of this act
29 and the amendments in section 103 of this act do not affect any
30 existing right acquired or liability or obligation incurred under the
31 sections repealed or amended or under any rule or order adopted under
32 those sections, nor does it affect any proceeding instituted under
33 those sections.

34 **Part II**
35 **Pet adoption fees**

1 **Sec. 201.** RCW 82.04.040 and 2004 c 153 s 402 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in this subsection, "sale" means
4 any transfer of the ownership of, title to, or possession of property
5 for a valuable consideration and includes any activity classified as
6 a "sale at retail" or "retail sale" under RCW 82.04.050. It includes
7 lease or rental, conditional sale contracts, and any contract under
8 which possession of the property is given to the purchaser but title
9 is retained by the vendor as security for the payment of the purchase
10 price. It also includes the furnishing of food, drink, or meals for
11 compensation whether consumed upon the premises or not. The term
12 "sale" does not include the transfer of the ownership of, title to,
13 or possession of an animal by an animal rescue organization in
14 exchange for the payment of an adoption fee.

15 (2) "Casual or isolated sale" means a sale made by a person who
16 is not engaged in the business of selling the type of property
17 involved.

18 (3)(a) "Lease or rental" means any transfer of possession or
19 control of tangible personal property for a fixed or indeterminate
20 term for consideration. A lease or rental may include future options
21 to purchase or extend. "Lease or rental" includes agreements covering
22 motor vehicles and trailers where the amount of consideration may be
23 increased or decreased by reference to the amount realized upon sale
24 or disposition of the property as defined in 26 U.S.C. Sec.
25 7701(h)(1), as amended or renumbered as of January 1, 2003. The
26 definition in this subsection (3) (~~shall~~) must be used for sales
27 and use tax purposes regardless if a transaction is characterized as
28 a lease or rental under generally accepted accounting principles, the
29 United States internal revenue code, Washington state's commercial
30 code, or other provisions of federal, state, or local law.

31 (b) "Lease or rental" does not include:

32 (i) A transfer of possession or control of property under a
33 security agreement or deferred payment plan that requires the
34 transfer of title upon completion of the required payments;

35 (ii) A transfer of possession or control of property under an
36 agreement that requires the transfer of title upon completion of
37 required payments, and payment of an option price does not exceed the
38 greater of one hundred dollars or one percent of the total required
39 payments; or

1 (iii) Providing tangible personal property along with an operator
2 for a fixed or indeterminate period of time. A condition of this
3 exclusion is that the operator is necessary for the tangible personal
4 property to perform as designed. For the purpose of this subsection
5 (3)(b)(iii), an operator must do more than maintain, inspect, or set
6 up the tangible personal property.

7 (4)(a) "Adoption fee" means an amount charged by an animal rescue
8 organization to adopt an animal, except that "adoption fee" does not
9 include any separately itemized charge for any incidental inanimate
10 items provided to persons adopting an animal, including food,
11 identification tags, collars, and leashes.

12 (b) "Animal care and control agency" means the same as in RCW
13 16.52.011 and also includes any similar entity operating outside of
14 this state.

15 (c) "Animal rescue group" means a nonprofit organization that:

16 (i)(A) Is exempt from federal income taxation under 26 U.S.C.
17 Sec. 501(c) of the federal internal revenue code as it exists on the
18 effective date of this section; or

19 (B) Is registered as a charity with the Washington secretary of
20 state under chapter 19.09 RCW, whether such registration is required
21 by law or voluntary;

22 (ii) Has as its primary purpose the prevention of abuse, neglect,
23 cruelty, exploitation, or homelessness of animals; and

24 (iii) Exclusively obtains dogs, cats, or other animals for
25 placement that are:

26 (A) Stray or abandoned;

27 (B) Surrendered or relinquished by animal owners or caretakers;

28 (C) Transferred from other animal rescue organizations; or

29 (D) Born in the care of such nonprofit organization other than
30 through intentional breeding by the nonprofit organization.

31 (d) "Animal rescue organization" means an animal care and control
32 agency or an animal rescue group.

33 **Sec. 202.** RCW 82.04.190 and 2015 c 169 s 3 are each amended to
34 read as follows:

35 "Consumer" means the following:

36 (1) Except as provided otherwise in this section, any person who
37 purchases, acquires, owns, holds, or uses any article of tangible
38 personal property irrespective of the nature of the person's business
39 and including, among others, without limiting the scope hereof,

1 persons who install, repair, clean, alter, improve, construct, or
2 decorate real or personal property of or for consumers other than for
3 the purpose of:

4 (a) Resale as tangible personal property in the regular course of
5 business;

6 (b) Incorporating such property as an ingredient or component of
7 real or personal property when installing, repairing, cleaning,
8 altering, imprinting, improving, constructing, or decorating such
9 real or personal property of or for consumers;

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

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

20 (e) Satisfying the person's obligations under an extended
21 warranty as defined in RCW 82.04.050(7), if such tangible personal
22 property replaces or becomes an ingredient or component of property
23 covered by the extended warranty without intervening use by such
24 person;

25 (2)(a) Any person engaged in any business activity taxable under
26 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires,
27 or uses any competitive telephone service, ancillary services, or
28 telecommunications service as those terms are defined in RCW
29 82.04.065, other than for resale in the regular course of business;
30 (c) any person who purchases, acquires, or uses any service defined
31 in RCW 82.04.050(2) (a) or (g), other than for resale in the regular
32 course of business or for the purpose of satisfying the person's
33 obligations under an extended warranty as defined in RCW
34 82.04.050(7); (d) any person who makes a purchase meeting the
35 definition of "sale at retail" and "retail sale" under RCW
36 82.04.050(15), other than for resale in the regular course of
37 business; (e) any person who purchases or acquires an extended
38 warranty as defined in RCW 82.04.050(7) other than for resale in the
39 regular course of business; and (f) any person who is an end user of
40 software. For purposes of this subsection (2)(f) and RCW

1 82.04.050(6), a person who purchases or otherwise acquires prewritten
2 computer software, who provides services described in RCW
3 82.04.050(6)((~~b~~)) (c) and who will charge consumers for the right
4 to access and use the prewritten computer software, is not an end
5 user of the prewritten computer software;

6 (3) Any person engaged in the business of contracting for the
7 building, repairing or improving of any street, place, road, highway,
8 easement, right-of-way, mass public transportation terminal or
9 parking facility, bridge, tunnel, or trestle which is owned by a
10 municipal corporation or political subdivision of the state of
11 Washington or by the United States and which is used or to be used
12 primarily for foot or vehicular traffic including mass transportation
13 vehicles of any kind as defined in RCW 82.04.280, in respect to
14 tangible personal property when such person incorporates such
15 property as an ingredient or component of such publicly owned street,
16 place, road, highway, easement, right-of-way, mass public
17 transportation terminal or parking facility, bridge, tunnel, or
18 trestle by installing, placing or spreading the property in or upon
19 the right-of-way of such street, place, road, highway, easement,
20 bridge, tunnel, or trestle or in or upon the site of such mass public
21 transportation terminal or parking facility;

22 (4) Any person who is an owner, lessee or has the right of
23 possession to or an easement in real property which is being
24 constructed, repaired, decorated, improved, or otherwise altered by a
25 person engaged in business, excluding only (a) municipal corporations
26 or political subdivisions of the state in respect to labor and
27 services rendered to their real property which is used or held for
28 public road purposes, and (b) the United States, instrumentalities
29 thereof, and county and city housing authorities created pursuant to
30 chapter 35.82 RCW in respect to labor and services rendered to their
31 real property. Nothing contained in this or any other subsection of
32 this definition may be construed to modify any other definition of
33 "consumer";

34 (5) Any person who is an owner, lessee, or has the right of
35 possession to personal property which is being constructed, repaired,
36 improved, cleaned, imprinted, or otherwise altered by a person
37 engaged in business;

38 (6) Any person engaged in the business of constructing,
39 repairing, decorating, or improving new or existing buildings or
40 other structures under, upon, or above real property of or for the

1 United States, any instrumentality thereof, or a county or city
2 housing authority created pursuant to chapter 35.82 RCW, including
3 the installing or attaching of any article of tangible personal
4 property therein or thereto, whether or not such personal property
5 becomes a part of the realty by virtue of installation; also, any
6 person engaged in the business of clearing land and moving earth of
7 or for the United States, any instrumentality thereof, or a county or
8 city housing authority created pursuant to chapter 35.82 RCW. Any
9 such person is a consumer within the meaning of this subsection in
10 respect to tangible personal property incorporated into, installed
11 in, or attached to such building or other structure by such person,
12 except that consumer does not include any person engaged in the
13 business of constructing, repairing, decorating, or improving new or
14 existing buildings or other structures under, upon, or above real
15 property of or for the United States, or any instrumentality thereof,
16 if the investment project would qualify for sales and use tax
17 deferral under chapter 82.63 RCW if undertaken by a private entity;

18 (7) Any person who is a lessor of machinery and equipment, the
19 rental of which is exempt from the tax imposed by RCW 82.08.020 under
20 RCW 82.08.02565, with respect to the sale of or charge made for
21 tangible personal property consumed in respect to repairing the
22 machinery and equipment, if the tangible personal property has a
23 useful life of less than one year. Nothing contained in this or any
24 other subsection of this section may be construed to modify any other
25 definition of "consumer";

26 (8) Any person engaged in the business of cleaning up for the
27 United States, or its instrumentalities, radioactive waste and other
28 by-products of weapons production and nuclear research and
29 development;

30 (9) Any person who is an owner, lessee, or has the right of
31 possession of tangible personal property that, under the terms of an
32 extended warranty as defined in RCW 82.04.050(7), has been repaired
33 or is replacement property, but only with respect to the sale of or
34 charge made for the repairing of the tangible personal property or
35 the replacement property;

36 (10) Any person who purchases, acquires, or uses services
37 described in RCW 82.04.050(6)((~~b~~)) (c) other than:

38 (a) For resale in the regular course of business; or

39 (b) For purposes of consuming the service described in RCW
40 82.04.050(6)((~~b~~)) (c) in producing for sale a new product, but only

1 if such service becomes a component of the new product. For purposes
2 of this subsection (10), "product" means a digital product, an
3 article of tangible personal property, or the service described in
4 RCW 82.04.050(6)(~~(b)~~) (c);

5 (11)(a) Any end user of a digital product or digital code.
6 "Consumer" does not include any person who is not an end user of a
7 digital product or a digital code and purchases, acquires, owns,
8 holds, or uses any digital product or digital code for purposes of
9 consuming the digital product or digital code in producing for sale a
10 new product, but only if the digital product or digital code becomes
11 a component of the new product. A digital code becomes a component of
12 a new product if the digital good or digital automated service
13 acquired through the use of the digital code becomes incorporated
14 into a new product. For purposes of this subsection, "product" has
15 the same meaning as in subsection (10) of this section.

16 (b)(i) For purposes of this subsection, "end user" means any
17 taxpayer as defined in RCW 82.12.010 other than a taxpayer who
18 receives by contract a digital product for further commercial
19 broadcast, rebroadcast, transmission, retransmission, licensing,
20 relicensing, distribution, redistribution or exhibition of the
21 product, in whole or in part, to others. A person that purchases
22 digital products or digital codes for the purpose of giving away such
23 products or codes will not be considered to have engaged in the
24 distribution or redistribution of such products or codes and will be
25 treated as an end user;

26 (ii) If a purchaser of a digital code does not receive the
27 contractual right to further redistribute, after the digital code is
28 redeemed, the underlying digital product to which the digital code
29 relates, then the purchaser of the digital code is an end user. If
30 the purchaser of the digital code receives the contractual right to
31 further redistribute, after the digital code is redeemed, the
32 underlying digital product to which the digital code relates, then
33 the purchaser of the digital code is not an end user. A purchaser of
34 a digital code who has the contractual right to further redistribute
35 the digital code is an end user if that purchaser does not have the
36 right to further redistribute, after the digital code is redeemed,
37 the underlying digital product to which the digital code relates;

38 (12) Any person who provides services described in RCW
39 82.04.050(9). Any such person is a consumer with respect to the
40 purchase, acquisition, or use of the tangible personal property that

1 the person provides along with an operator in rendering services
2 defined as a retail sale in RCW 82.04.050(9). Any such person may
3 also be a consumer under other provisions of this section;

4 (13) Any person who purchases, acquires, owns, holds, or uses
5 chemical sprays or washes for the purpose of postharvest treatment of
6 fruit for the prevention of scald, fungus, mold, or decay, or who
7 purchases feed, seed, seedlings, fertilizer, agents for enhanced
8 pollination including insects such as bees, and spray materials, is
9 not a consumer of such items, but only to the extent that the items:

10 (a) Are used in relation to the person's participation in the
11 federal conservation reserve program, the environmental quality
12 incentives program, the wetlands reserve program, the wildlife
13 habitat incentives program, or their successors administered by the
14 United States department of agriculture;

15 (b) Are for use by a farmer for the purpose of producing for sale
16 any agricultural product; or

17 (c) Are for use by a farmer to produce or improve wildlife
18 habitat on land the farmer owns or leases while acting under
19 cooperative habitat development or access contracts with an
20 organization exempt from federal income tax under 26 U.S.C. Sec.
21 501(c)(3) of the federal internal revenue code or the Washington
22 state department of fish and wildlife; (~~and~~)

23 (14) A regional transit authority is not a consumer with respect
24 to labor, services, or tangible personal property purchased pursuant
25 to agreements providing maintenance services for bus, rail, or rail
26 fixed guideway equipment when a transit agency, as defined in RCW
27 81.104.015, performs the labor or services; and

28 (15) The term "consumer" does not include:

29 (a) An animal rescue organization with respect to animals under
30 its care and control; and

31 (b) Any person with respect to an animal adopted by that person
32 from an animal rescue organization.

33 NEW SECTION. Sec. 203. Sections 201 and 202 of this act apply
34 both prospectively and retroactively to July 1, 2015.

35 **Part III**

36 **Technical corrections and clarifications to 2015 legislation**

1 **Sec. 301.** 2015 3rd sp.s. c 6 s 2301 (uncodified) is amended to
2 read as follows:

3 (1) Except as provided otherwise in this (~~section~~) part, this
4 act is necessary for the immediate preservation of the public peace,
5 health, or safety, or support of the state government and its
6 existing public institutions, and takes effect July 1, 2015.

7 (2) Parts IV, VI, VIII, and XIX of this act are necessary for the
8 immediate preservation of the public peace, health, or safety, or
9 support of the state government and its existing public institutions,
10 and take effect September 1, 2015.

11 (3) Part X of this act takes effect October 1, 2016.

12 (4) Section 1105 of this act takes effect January 1, 2016.

13 (5) Except for section 2004 of this act, Part XX of this act
14 takes effect January 1, 2019.

15 (6) Section 2004 of this act takes effect January 1, 2022.

16 **Sec. 302.** 2015 3rd sp.s. c 6 s 2303 (uncodified) is amended to
17 read as follows:

18 (~~Part VIII of this act expires July 1, 2019~~) (1) Sections 802
19 and 804, chapter 6, Laws of 2015 3rd sp. sess. expire July 1, 2026;

20 (2) Section 803, chapter 6, Laws of 2015 3rd sp. sess. expires
21 January 1, 2026; and

22 (3) Section 805, chapter 6, Laws of 2015 3rd sp. sess. expires
23 January 1, 2031.

24 **Sec. 303.** 2015 3rd sp.s. c 6 s 801 (uncodified) is amended to
25 read as follows:

26 (1)(a) The legislature finds that a robust maritime industry is
27 crucial for the state's economic vitality. The legislature further
28 finds that:

29 (i) The joint task force for economic resilience of maritime and
30 manufacturing established policy goals to continue efforts towards
31 developing a robust maritime industry in the state;

32 (ii) The maritime industry has a direct and indirect impact on
33 jobs in the state;

34 (iii) Many of the cities and towns impacted by the maritime
35 industry are often small with limited resources to encourage economic
36 growth, heavily relying on the maritime industry for local jobs and
37 revenues in the community;

1 (iv) Keeping Washington competitive with other cruising
2 destinations is essential to continue to build a robust maritime
3 economy in the state; and

4 (v) Tax incentives are an imperative component to improve the
5 state's overall competitiveness in this sector.

6 (b) Therefore, the legislature intends to:

7 (i) Bolster the maritime industry in the state by incentivizing
8 larger vessel owners to use Washington waters for recreational
9 boating to increase economic activity and jobs in coastal communities
10 and inland water regions of the state;

11 (ii) Achieve this objective in a fiscally responsible manner and
12 require analysis of specific metrics to ensure valuable state
13 resources are being used to accomplish the intended goal; and

14 (iii) Provide limited, short-term tax relief to entity-owned
15 nonresident vessel owners that currently are not afforded the same
16 benefits as other nonresident vessel owners.

17 (2)(a) This subsection is the tax preference performance
18 statement for the entity-owned nonresident vessel tax preference
19 established in section 803 of this act. The performance statement is
20 only intended to be used for subsequent evaluation of the tax
21 preference. It is not intended to create a private right of action by
22 any party or be used to determine eligibility for preferential tax
23 treatment.

24 (b) The legislature categorizes this tax preference as one
25 intended to accomplish the purposes indicated in RCW 82.32.808(2)(c)
26 and one intended to improve the state's competitiveness with other
27 nearby cruising destinations.

28 (c) It is the legislature's specific public policy objective to
29 increase economic activity and jobs related to the maritime industry
30 by providing a tax preference for large entity-owned nonresident
31 vessels to increase the length of time these vessels cruise
32 Washington waters in turn strengthening the maritime economy in the
33 state.

34 (d) To measure the effectiveness of the tax preference provided
35 in part (~~(XII [VIII] of this act)~~) VIII, chapter 6, Laws of 2015 3rd
36 sp. sess. in achieving the public policy objective in (c) of this
37 subsection, the joint legislative audit and review committee must
38 provide the following in a published evaluation of this tax
39 preference by December 31, 2024:

1 (i) A comparison of the gross and taxable revenue generated by
2 businesses that sell or provide maintenance or repair of vessels,
3 prior to and after the enactment of this tax preference;

4 (ii) Analysis of retail sales taxes collected from the restaurant
5 and service industries in coastal and inlet coastal jurisdictions,
6 for both counties and cities, for periods prior to and after the
7 enactment of this tax preference;

8 (iii) Employment and wage trends for businesses described in
9 (d)(i) and (ii) of this subsection, for periods prior to and after
10 the enactment of this tax preference;

11 (iv) Descriptive statistics for the number of permits sold each
12 year in addition to the following information:

13 (A) The cost for each permit by strata of vessel length;

14 (B) The jurisdiction of ownership for the nonresident vessel; and

15 (C) The amount of use tax that would have been due based on the
16 estimated value of the vessel;

17 (v) A comparison of the number of registered entity-owned and
18 individually owned vessels registered in Washington prior to and
19 after the enactment of this tax preference; and

20 (vi) Data and analysis for Washington's main cruising destination
21 competitors, specifically looking at tax preferences provided in
22 those jurisdictions, vessel industry income data, and any additional
23 relevant information to compare Washington's maritime climate with
24 its competitors.

25 (e) The provision of RCW 82.32.808(5) does not apply to this tax
26 preference.

27 **Sec. 304.** 2015 3rd sp.s. c 30 s 1 (uncodified) is amended to
28 read as follows:

29 This section is the tax preference performance statement for the
30 tax preference contained in section 2 (~~of this act~~), chapter 30,
31 Laws of 2015 3rd sp. sess. This performance statement is only
32 intended to be used for subsequent evaluation of the tax preference.
33 It is not intended to create a private right of action by any party
34 or be used to determine eligibility for preferential tax treatment.

35 (1) The legislature categorizes this tax preference as one
36 intended to provide tax relief for certain businesses or individuals,
37 as indicated in RCW 82.32.808(2)(e).

38 (2) It is the legislature's specific public policy objective to
39 provide tax relief to senior citizens, disabled persons, and

1 veterans. 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 increase the current
5 statutory static income thresholds which were last modified in 2004.

6 (3) (~~The expansion of the items allowed to be deducted~~) This
7 tax preference is meant to be permanent and, therefore, not subject
8 to the ten-year expiration provision in RCW 82.32.805(1)(a).

9 NEW SECTION. **Sec. 305.** Nothing in section 204, chapter 5, Laws
10 of 2015 3rd sp. sess. may be construed as affecting the taxable
11 status in calendar year 2015 of any person with a substantial nexus
12 with this state under RCW 82.04.067 any time on or after January 1,
13 2015, and before September 1, 2015, with respect to business and
14 occupation taxes on apportionable activities as defined in RCW
15 82.04.460.

16 NEW SECTION. **Sec. 306.** Section 305 of this act applies
17 retroactively for the period January 1, 2015, through December 31,
18 2015.

19 **Part IV**

20 **Automated sales suppression devices and phantom-ware**

21 **Sec. 401.** RCW 82.32.670 and 2013 c 309 s 3 are each amended to
22 read as follows:

23 (1)(a) Automated sales suppression devices, phantom-ware,
24 electronic cash registers or point of sale systems used with
25 automated sales suppression devices or phantom-ware, and any property
26 constituting proceeds traceable to any violation of RCW 82.32.290(4)
27 are considered contraband and are subject to seizure and forfeiture.

28 (b) Property subject to forfeiture under (a) of this subsection
29 (1) may be seized by any agent of the department authorized to assess
30 or collect taxes, or law enforcement officer of this state, upon
31 process issued by any superior court or district court having
32 jurisdiction over the property. Seizure without process may be made
33 if:

34 (i) The seizure is incident to an arrest or a search under a
35 search warrant; or

1 (ii) The department or the law enforcement officer has probable
2 cause to believe that the property was used or is intended to be used
3 in violation of RCW 82.32.290(4) and exigent circumstances exist
4 making procurement of a search warrant impracticable.

5 (2) Forfeiture authorized by this section is deemed to have
6 commenced by the seizure. Notice of seizure must be given to the
7 department if the seizure is made by a law enforcement officer
8 without the presence of any agent of the department. The department
9 must cause notice of the seizure and intended forfeiture to be served
10 on the owner of the property seized, if known, and on any other
11 person known by the department to have a right or interest in the
12 seized property. Such service must be made within fifteen days
13 following the seizure or the department's receipt of notification of
14 the seizure. The notice may be served by any method authorized by law
15 or court rule, by certified mail with return receipt requested, or
16 electronically in accordance with RCW 82.32.135. Service by certified
17 mail or electronic means is deemed complete upon mailing the notice,
18 electronically sending the notice, or electronically notifying the
19 person or persons entitled to the notice that the notice is available
20 to be accessed by the person or persons, within the fifteen-day
21 period following the seizure or the department's receipt of
22 notification of the seizure.

23 (3) If no person notifies the department in writing of the
24 person's claim of lawful ownership or right to lawful possession of
25 the item or items seized within thirty days of the date of service of
26 the notice of seizure and intended forfeiture, the item or items
27 seized are deemed forfeited.

28 (4)(a) If any person notifies the department, in writing, of the
29 person's claim of lawful ownership or lawful right to possession of
30 the item or items seized within thirty days of the date of service of
31 the notice of seizure and intended forfeiture, the person or persons
32 must be afforded a reasonable opportunity to be heard as to the
33 claim. The hearing must be before the director or the director's
34 designee. A hearing and any administrative or judicial review is
35 governed by chapter 34.05 RCW. The burden of proof by a preponderance
36 of the evidence is upon the person claiming to be the lawful owner or
37 the person claiming to have the lawful right to possession of the
38 item or items seized.

39 (b) The department must return the item or items to the claimant
40 as soon as possible upon a determination that the claimant is the

1 present lawful owner or is lawfully entitled to possession of the
2 item or items seized.

3 (5) When property is sought to be forfeited on the ground that it
4 constitutes proceeds traceable to a violation of RCW 82.32.290(4),
5 the department must prove by a preponderance of the evidence that the
6 property constitutes proceeds traceable to a violation of RCW
7 82.32.290(4).

8 (6)(a) When automated sales suppression devices or phantom-ware
9 voluntarily surrendered to an agent of the department, or property
10 forfeited under this section, other than proceeds traceable to a
11 violation of RCW 82.32.290(4), is no longer required for evidentiary
12 purposes, the department may:

13 (i) Destroy or have the property destroyed;

14 (ii) Retain the property for training or other official purposes;
15 or

16 (iii) Loan or give the property to any law enforcement or tax
17 administration agency of any state, political subdivision or
18 municipal corporation of a state, or the United States for training
19 or other official purposes. For purposes of this subsection
20 (6)(a)(iii), "state" has the same meaning as in RCW 82.04.462.

21 (b) When proceeds traceable to a violation of RCW 82.32.290(4)
22 forfeited under this section are no longer required for evidentiary
23 purposes, they must be deposited into the general fund.

24 (7) The definitions in this subsection apply to this section:

25 (a) "Automated sales suppression device" means a software program
26 that falsifies the electronic records of electronic cash registers or
27 other point of sale systems, including transaction data and
28 transaction reports. The term includes the software program, any
29 device that carries the software program, or an internet link to the
30 software program.

31 (b) "Electronic cash register" means a device that keeps a
32 register or supporting documents through the means of an electronic
33 device or computer system designed to record transaction data for the
34 purpose of computing, compiling, or processing sales transaction data
35 in whatever manner.

36 (c) "Phantom-ware" means a programming option that is hidden,
37 preinstalled, or installed-at-a-later-time in the operating system of
38 an electronic cash register or other point of sale device, or
39 hardwired into the electronic cash register or other point of sale
40 device, and that can be used to create a virtual second till or may

1 eliminate or manipulate transaction reports that may or may not be
2 preserved in digital formats to represent the true or manipulated
3 record of transactions in the electronic cash register or other point
4 of sale device.

5 (d) "Transaction data" means information about sales
6 transactions, including items purchased by a customer, the price for
7 each item, a taxability determination for each item, a segregated tax
8 amount for each of the taxed items, the amount of cash or credit
9 tendered, the net amount returned to the customer in change, the date
10 and time of the purchase, the name, address, and identification
11 number of the vendor, and the receipt or invoice number of the
12 transaction.

13 (e) "Transaction reports" means a report that includes
14 information associated with sales transactions, taxes collected,
15 media totals, and discount voids at an electronic cash register that
16 can be printed on cash register tape at the end of a day or shift, or
17 a report documenting every action at an electronic cash register or
18 other point of sale device and that is stored electronically.

19 Part V

20 Miscellaneous technical corrections

21 **Sec. 501.** RCW 82.04.261 and 2010 1st sp.s. c 23 s 510 are each
22 amended to read as follows:

23 (1) In addition to the taxes imposed under RCW 82.04.260(~~((+11))~~)
24 (12), a surcharge is imposed on those persons who are subject to any
25 of the taxes imposed under RCW 82.04.260(~~((+11))~~) (12). Except as
26 otherwise provided in this section, the surcharge is equal to 0.052
27 percent. The surcharge is added to the rates provided in RCW
28 82.04.260(~~((+11))~~) (12) (a), (b), (c), and (d). The surcharge and this
29 section expire July 1, 2024.

30 (2) All receipts from the surcharge imposed under this section
31 must be deposited into the forest and fish support account created in
32 RCW 76.09.405.

33 (3)(a) The surcharge imposed under this section is suspended if:

34 (i) Receipts from the surcharge total at least eight million
35 dollars during any fiscal biennium; or

36 (ii) The office of financial management certifies to the
37 department that the federal government has appropriated at least two
38 million dollars for participation in forest and fish report-related

1 activities by federally recognized Indian tribes located within the
2 geographical boundaries of the state of Washington for any federal
3 fiscal year.

4 (b)(i) The suspension of the surcharge under (a)(i) of this
5 subsection (3) takes effect on the first day of the calendar month
6 that is at least thirty days after the end of the month during which
7 the department determines that receipts from the surcharge total at
8 least eight million dollars during the fiscal biennium. The surcharge
9 is imposed again at the beginning of the following fiscal biennium.

10 (ii) The suspension of the surcharge under (a)(ii) of this
11 subsection (3) takes effect on the later of the first day of October
12 of any federal fiscal year for which the federal government
13 appropriates at least two million dollars for participation in forest
14 and fish report-related activities by federally recognized Indian
15 tribes located within the geographical boundaries of the state of
16 Washington, or the first day of a calendar month that is at least
17 thirty days following the date that the office of financial
18 management makes a certification to the department under subsection
19 (5) of this section. The surcharge is imposed again on the first day
20 of the following July.

21 (4)(a) If, by October 1st of any federal fiscal year, the office
22 of financial management certifies to the department that the federal
23 government has appropriated funds for participation in forest and
24 fish report-related activities by federally recognized Indian tribes
25 located within the geographical boundaries of the state of Washington
26 but the amount of the appropriation is less than two million dollars,
27 the department must adjust the surcharge in accordance with this
28 subsection.

29 (b) The department must adjust the surcharge by an amount that
30 the department estimates will cause the amount of funds deposited
31 into the forest and fish support account for the state fiscal year
32 that begins July 1st and that includes the beginning of the federal
33 fiscal year for which the federal appropriation is made, to be
34 reduced by twice the amount of the federal appropriation for
35 participation in forest and fish report-related activities by
36 federally recognized Indian tribes located within the geographical
37 boundaries of the state of Washington.

38 (c) Any adjustment in the surcharge takes effect at the beginning
39 of a calendar month that is at least thirty days after the date that

1 the office of financial management makes the certification under
2 subsection (5) of this section.

3 (d) The surcharge is imposed again at the rate provided in
4 subsection (1) of this section on the first day of the following
5 state fiscal year unless the surcharge is suspended under subsection
6 (3) of this section or adjusted for that fiscal year under this
7 subsection.

8 (e) Adjustments of the amount of the surcharge by the department
9 are final and may not be used to challenge the validity of the
10 surcharge imposed under this section.

11 (f) The department must provide timely notice to affected
12 taxpayers of the suspension of the surcharge or an adjustment of the
13 surcharge.

14 (5) The office of financial management must make the
15 certification to the department as to the status of federal
16 appropriations for tribal participation in forest and fish report-
17 related activities.

18 **Sec. 502.** RCW 82.04.334 and 2010 1st sp.s. c 23 s 512 are each
19 amended to read as follows:

20 This chapter does not apply to any sale of standing timber
21 excluded from the definition of "sale" in RCW 82.45.010(3). The
22 definitions in RCW 82.04.260(~~((11))~~) (12) apply to this section.

23 **Sec. 503.** RCW 82.04.43391 and 2010 1st sp.s. c 23 s 112 are each
24 amended to read as follows:

25 (1) In computing tax there may be deducted from the measure of
26 tax interest and fees on loans secured by commercial aircraft
27 primarily used to provide routine air service and owned by:

28 (a) An air carrier, as defined in RCW (~~(82.42.030)~~) 82.42.010,
29 which is primarily engaged in the business of providing passenger air
30 service;

31 (b) An affiliate of such air carrier; or

32 (c) A parent entity for which such air carrier is an affiliate.

33 (2) The deduction authorized under this section is not available
34 to any person who is physically present in this state as determined
35 under RCW 82.04.067(6).

36 (3) For purposes of this section, the following definitions
37 apply:

1 (a) "Affiliate" means a person is "affiliated," as defined in RCW
2 82.04.645, with another person; and

3 (b) "Commercial aircraft" means a commercial airplane as defined
4 in RCW 82.32.550.

5 NEW SECTION. **Sec. 504.** RCW 82.04.4483 (Credit—Programming or
6 manufacturing software in rural counties) and 2010 c 114 s 119 & 2004
7 c 25 s 1 are each repealed.

8 **Sec. 505.** RCW 82.32.030 and 2011 c 298 s 38 are each amended to
9 read as follows:

10 (1) Except as provided in subsections (2) and (3) of this
11 section, if any person engages in any business or performs any act
12 upon which a tax is imposed by the preceding chapters, he or she
13 must, under such rules as the department prescribes, apply for and
14 obtain from the department a registration certificate. Such
15 registration certificate is personal and nontransferable and is valid
16 as long as the taxpayer continues in business and pays the tax
17 accrued to the state. In case business is transacted at two or more
18 separate places by one taxpayer, a separate registration certificate
19 for each place at which business is transacted with the public is
20 required. Each certificate must be numbered and must show the name,
21 residence, and place and character of business of the taxpayer and
22 such other information as the department of revenue deems necessary
23 and must be posted in a conspicuous place at the place of business
24 for which it is issued. Where a place of business of the taxpayer is
25 changed, the taxpayer must return to the department the existing
26 certificate, and a new certificate will be issued for the new place
27 of business. No person required to be registered under this section
28 may engage in any business taxable hereunder without first being so
29 registered. The department, by rule, may provide for the issuance of
30 certificates of registration to temporary places of business.

31 (2) Unless the person is a dealer as defined in RCW 9.41.010,
32 registration under this section is not required if the following
33 conditions are met:

34 (a) A person's value of products, gross proceeds of sales, or
35 gross income of the business, from all business activities taxable
36 under chapter 82.04 RCW, is less than twelve thousand dollars per
37 year;

1 (b) The person's gross income of the business from all activities
2 taxable under chapter 82.16 RCW is less than twelve thousand dollars
3 per year;

4 (c) The person is not required to collect or pay to the
5 department of revenue any other tax or fee (~~(which)~~) that the
6 department is authorized to collect; and

7 (d) The person is not otherwise required to obtain a license
8 subject to the (~~master~~) business license application procedure
9 provided in chapter 19.02 RCW.

10 (3) All persons who agree to collect and remit sales and use tax
11 to the department under the agreement must register through the
12 central registration system authorized under the agreement. Persons
13 required to register under subsection (1) of this section are not
14 relieved of that requirement because of registration under this
15 subsection (3).

16 (4) Persons registered under subsection (3) of this section who
17 are not required to register under subsection (1) of this section and
18 who are not otherwise subject to the requirements of chapter 19.02
19 RCW are not subject to the fees imposed by the department under the
20 authority of RCW 19.02.075.

21 **Sec. 506.** RCW 84.34.108 and 2014 c 97 s 311 and 2014 c 58 s 28
22 are each reenacted and amended to read as follows:

23 (1) When land has once been classified under this chapter, a
24 notation of the classification must be made each year upon the
25 assessment and tax rolls and the land must be valued pursuant to RCW
26 84.34.060 or 84.34.065 until removal of all or a portion of the
27 classification by the assessor upon occurrence of any of the
28 following:

29 (a) Receipt of notice from the owner to remove all or a portion
30 of the classification;

31 (b) Sale or transfer to an ownership, except a transfer that
32 resulted from a default in loan payments made to or secured by a
33 governmental agency that intends to or is required by law or
34 regulation to resell the property for the same use as before, making
35 all or a portion of the land exempt from ad valorem taxation;

36 (c) Sale or transfer of all or a portion of the land to a new
37 owner, unless the new owner has signed a notice of classification
38 continuance, except transfer to an owner who is an heir or devisee of
39 a deceased owner or transfer by a transfer on death deed does not, by

1 itself, result in removal of classification. The notice of
2 continuance must be on a form prepared by the department. If the
3 notice of continuance is not signed by the new owner and attached to
4 the real estate excise tax affidavit, all additional taxes,
5 applicable interest, and penalty calculated pursuant to subsection
6 (4) of this section become due and payable by the seller or
7 transferor at time of sale. The auditor may not accept an instrument
8 of conveyance regarding classified land for filing or recording
9 unless the new owner has signed the notice of continuance or the
10 additional tax, applicable interest, and penalty has been paid, as
11 evidenced by the real estate excise tax stamp affixed thereto by the
12 treasurer. The seller, transferor, or new owner may appeal the new
13 assessed valuation calculated under subsection (4) of this section to
14 the county board of equalization in accordance with the provisions of
15 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
16 of equalization to hear these appeals;

17 (d)(i) Determination by the assessor, after giving the owner
18 written notice and an opportunity to be heard, that all or a portion
19 of the land no longer meets the criteria for classification under
20 this chapter. The criteria for classification pursuant to this
21 chapter continue to apply after classification has been granted.

22 (ii) The granting authority, upon request of an assessor, must
23 provide reasonable assistance to the assessor in making a
24 determination whether the land continues to meet the qualifications
25 of RCW 84.34.020 (1) or (3). The assistance must be provided within
26 thirty days of receipt of the request.

27 (2) Land may not be removed from classification because of:

28 (a) The creation, sale, or transfer of forestry riparian
29 easements under RCW 76.13.120; or

30 (b) The creation, sale, or transfer of a fee interest or a
31 conservation easement for the riparian open space program under RCW
32 76.09.040.

33 (3) Within thirty days after the removal of all or a portion of
34 the land from current use classification under subsection (1) of this
35 section, the assessor must notify the owner in writing, setting forth
36 the reasons for the removal. The seller, transferor, or owner may
37 appeal the removal to the county board of equalization in accordance
38 with the provisions of RCW 84.40.038. The removal notice must explain
39 the steps needed to appeal the removal decision, including when a

1 notice of appeal must be filed, where the forms may be obtained, and
2 how to contact the county board of equalization.

3 (4) Unless the removal is reversed on appeal, the assessor must
4 revalue the affected land with reference to its true and fair value
5 on January 1st of the year of removal from classification. Both the
6 assessed valuation before and after the removal of classification
7 must be listed and taxes must be allocated according to that part of
8 the year to which each assessed valuation applies. Except as provided
9 in subsection (6) of this section, an additional tax, applicable
10 interest, and penalty must be imposed, which are due and payable to
11 the treasurer thirty days after the owner is notified of the amount
12 of the additional tax, applicable interest, and penalty. As soon as
13 possible, the assessor must compute the amount of additional tax,
14 applicable interest, and penalty and the treasurer must mail notice
15 to the owner of the amount thereof and the date on which payment is
16 due. The amount of the additional tax, applicable interest, and
17 penalty must be determined as follows:

18 (a) The amount of additional tax is equal to the difference
19 between the property tax paid as "open space land," "farm and
20 agricultural land," or "timberland" and the amount of property tax
21 otherwise due and payable for the seven years last past had the land
22 not been so classified;

23 (b) The amount of applicable interest is equal to the interest
24 upon the amounts of the additional tax paid at the same statutory
25 rate charged on delinquent property taxes from the dates on which the
26 additional tax could have been paid without penalty if the land had
27 been assessed at a value without regard to this chapter;

28 (c) The amount of the penalty is as provided in RCW 84.34.080.
29 The penalty may not be imposed if the removal satisfies the
30 conditions of RCW 84.34.070.

31 (5) Additional tax, applicable interest, and penalty become a
32 lien on the land (~~which~~). The lien attaches at the time the land is
33 removed from classification under this chapter and (~~have~~) has
34 priority to and must be fully paid and satisfied before any
35 recognizance, mortgage, judgment, debt, obligation, or responsibility
36 to or with which the land may become charged or liable. This lien may
37 be foreclosed upon expiration of the same period after delinquency
38 and in the same manner provided by law for foreclosure of liens for
39 delinquent real property taxes as provided in RCW 84.64.050. Any
40 additional tax unpaid on the due date (~~are~~~~is~~) is delinquent as

1 of the due date. From the date of delinquency until paid, interest
2 must be charged at the same rate applied by law to delinquent ad
3 valorem property taxes.

4 (6) The additional tax, applicable interest, and penalty
5 specified in subsection (4) of this section may not be imposed if the
6 removal of classification pursuant to subsection (1) of this section
7 resulted solely from:

8 (a) Transfer to a government entity in exchange for other land
9 located within the state of Washington;

10 (b)(i) A taking through the exercise of the power of eminent
11 domain, or (ii) sale or transfer to an entity having the power of
12 eminent domain in anticipation of the exercise of such power, said
13 entity having manifested its intent in writing or by other official
14 action;

15 (c) A natural disaster such as a flood, windstorm, earthquake, or
16 other such calamity rather than by virtue of the act of the landowner
17 changing the use of the property;

18 (d) Official action by an agency of the state of Washington or by
19 the county or city within which the land is located which disallows
20 the present use of the land;

21 (e) Transfer of land to a church when the land would qualify for
22 exemption pursuant to RCW 84.36.020;

23 (f) Acquisition of property interests by state agencies or
24 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
25 for the purposes enumerated in those sections. At such time as these
26 property interests are not used for the purposes enumerated in RCW
27 84.34.210 and 64.04.130 the additional tax specified in subsection
28 (4) of this section must be imposed;

29 (g) Removal of land classified as farm and agricultural land
30 under RCW 84.34.020(2)(f);

31 (h) Removal of land from classification after enactment of a
32 statutory exemption that qualifies the land for exemption and receipt
33 of notice from the owner to remove the land from classification;

34 (i) The creation, sale, or transfer of forestry riparian
35 easements under RCW 76.13.120;

36 (j) The creation, sale, or transfer of a conservation easement of
37 private forestlands within unconfined channel migration zones or
38 containing critical habitat for threatened or endangered species
39 under RCW 76.09.040;

1 (k) The sale or transfer of land within two years after the death
2 of the owner of at least a fifty percent interest in the land if the
3 land has been assessed and valued as classified forestland,
4 designated as forestland under chapter 84.33 RCW, or classified under
5 this chapter continuously since 1993. The date of death shown on a
6 death certificate is the date used for the purposes of this
7 subsection (6)(k); or

8 (l)(i) The discovery that the land was classified under this
9 chapter in error through no fault of the owner. For purposes of this
10 subsection (6)(l), "fault" means a knowingly false or misleading
11 statement, or other act or omission not in good faith, that
12 contributed to the approval of classification under this chapter or
13 the failure of the assessor to remove the land from classification
14 under this chapter.

15 (ii) For purposes of this subsection (6), the discovery that land
16 was classified under this chapter in error through no fault of the
17 owner is not the sole reason for removal of classification pursuant
18 to subsection (1) of this section if an independent basis for removal
19 exists. Examples of an independent basis for removal include the
20 owner changing the use of the land or failing to meet any applicable
21 income criteria required for classification under this chapter.

22 **Sec. 507.** RCW 84.41.041 and 2015 c 86 s 103 are each amended to
23 read as follows:

24 (1) Each county assessor must cause taxable real property to be
25 physically inspected and valued at least once every six years in
26 accordance with RCW 84.41.030, and in accordance with a plan filed
27 with and approved by the department of revenue. Such revaluation plan
28 must provide that all taxable real property within a county must be
29 revalued and these newly determined values placed on the assessment
30 rolls each year. Property must be valued at one hundred percent of
31 its true and fair value and assessed on the same basis, in accordance
32 with RCW 84.40.030, unless specifically provided otherwise by law.
33 ~~((During the intervals between each physical inspection of real
34 property, the valuation of such property may be adjusted to its
35 current true and fair value, such adjustments to be based upon
36 appropriate statistical data. If the revaluation plan provides for
37 physical inspection less frequently than once each four years,))~~
38 During the intervals between each physical inspection of real
39 property, the valuation of such property must be adjusted to its

1 current true and fair value, such adjustments to be made once each
2 year and to be based upon appropriate statistical data.

3 (2) The assessor may require property owners to submit pertinent
4 data respecting taxable property in their control including data
5 respecting any sale or purchase of said property within the past five
6 years, the cost and characteristics of any improvement on the
7 property and other facts necessary for appraisal of the property.

8 **Sec. 508.** RCW 82.04.280 and 2010 c 106 s 205 are each reenacted
9 to read as follows:

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

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

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

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

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

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

27 **Sec. 509.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s
28 401 are each reenacted and amended to read as follows:

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

36 (b) For the purposes of this section:

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

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

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

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

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

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

34 NEW SECTION. Sec. 510. The following acts or parts of acts are
35 each repealed:

- 36 (1) 2010 c 106 s 206;
- 37 (2) 2009 c 461 s 3;
- 38 (3) 2006 c 300 s 7; and
- 39 (4) 2003 c 149 s 4.

1 **Sec. 511.** RCW 35.102.130 and 2010 c 111 s 305 are each amended
2 to read as follows:

3 A city that imposes a business and occupation tax must provide
4 for the allocation and apportionment of a person's gross income,
5 other than persons subject to the provisions of chapter 82.14A RCW,
6 as follows:

7 (1) Gross income derived from all activities other than those
8 taxed as service or royalties must be allocated to the location where
9 the activity takes place.

10 (a) In the case of sales of tangible personal property, the
11 activity takes place where delivery to the buyer occurs.

12 (b)(i) In the case of sales of digital products, the activity
13 takes place where delivery to the buyer occurs. The delivery of
14 digital products will be deemed to occur at:

15 (A) The seller's place of business if the purchaser receives the
16 digital product at the seller's place of business;

17 (B) If not received at the seller's place of business, the
18 location where the purchaser or the purchaser's donee, designated as
19 such by the purchaser, receives the digital product, including the
20 location indicated by instructions for delivery to the purchaser or
21 donee, known to the seller;

22 (C) If the location where the purchaser or the purchaser's donee
23 receives the digital product is not known, the purchaser's address
24 maintained in the ordinary course of the seller's business when use
25 of this address does not constitute bad faith;

26 (D) If no address for the purchaser is maintained in the ordinary
27 course of the seller's business, the purchaser's address obtained
28 during the consummation of the sale, including the address of a
29 purchaser's payment instrument, if no other address is available,
30 when use of this address does not constitute bad faith; and

31 (E) If no address for the purchaser is obtained during the
32 consummation of the sale, the address where the digital good or
33 digital code is first made available for transmission by the seller
34 or the address from which the digital automated service or service
35 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c) was provided,
36 disregarding for these purposes any location that merely provided the
37 digital transfer of the product sold.

38 (ii) If none of the methods in (b)(i) of this subsection (1) for
39 determining where the delivery of digital products occurs are
40 available after a good faith effort by the taxpayer to apply the

1 methods provided in (b)(i)(A) through (E) of this subsection (1),
2 then the city and the taxpayer may mutually agree to employ any other
3 method to effectuate an equitable allocation of income from the sale
4 of digital products. The taxpayer will be responsible for petitioning
5 the city to use an alternative method under this subsection
6 (1)(b)(ii). The city may employ an alternative method for allocating
7 the income from the sale of digital products if the methods provided
8 in (b)(i)(A) through (E) of this subsection (1) are not available and
9 the taxpayer and the city are unable to mutually agree on an
10 alternative method to effectuate an equitable allocation of income
11 from the sale of digital products.

12 (iii) For purposes of this subsection (1)(b), the following
13 definitions apply:

14 (A) "Digital automated services," "digital codes," and "digital
15 goods" have the same meaning as in RCW 82.04.192;

16 (B) "Digital products" means digital goods, digital codes,
17 digital automated services, and the services described in RCW
18 82.04.050 (2)(g) and (6)((~~b~~)) (c); and

19 (C) "Receive" has the same meaning as in RCW 82.32.730.

20 (c) If a business activity allocated under this subsection (1)
21 takes place in more than one city and all cities impose a gross
22 receipts tax, a credit must be allowed as provided in RCW 35.102.060;
23 if not all of the cities impose a gross receipts tax, the affected
24 cities must allow another credit or allocation system as they and the
25 taxpayer agree.

26 (2) Gross income derived as royalties from the granting of
27 intangible rights must be allocated to the commercial domicile of the
28 taxpayer.

29 (3) Gross income derived from activities taxed as services shall
30 be apportioned to a city by multiplying apportionable income by a
31 fraction, the numerator of which is the payroll factor plus the
32 service-income factor and the denominator of which is two.

33 (a) The payroll factor is a fraction, the numerator of which is
34 the total amount paid in the city during the tax period by the
35 taxpayer for compensation and the denominator of which is the total
36 compensation paid everywhere during the tax period. Compensation is
37 paid in the city if:

38 (i) The individual is primarily assigned within the city;

1 (ii) The individual is not primarily assigned to any place of
2 business for the tax period and the employee performs fifty percent
3 or more of his or her service for the tax period in the city; or

4 (iii) The individual is not primarily assigned to any place of
5 business for the tax period, the individual does not perform fifty
6 percent or more of his or her service in any city, and the employee
7 resides in the city.

8 (b) The service income factor is a fraction, the numerator of
9 which is the total service income of the taxpayer in the city during
10 the tax period, and the denominator of which is the total service
11 income of the taxpayer everywhere during the tax period. Service
12 income is in the city if:

13 (i) The customer location is in the city; or

14 (ii) The income-producing activity is performed in more than one
15 location and a greater proportion of the service-income-producing
16 activity is performed in the city than in any other location, based
17 on costs of performance, and the taxpayer is not taxable at the
18 customer location; or

19 (iii) The service-income-producing activity is performed within
20 the city, and the taxpayer is not taxable in the customer location.

21 (c) If the allocation and apportionment provisions of this
22 subsection do not fairly represent the extent of the taxpayer's
23 business activity in the city or cities in which the taxpayer does
24 business, the taxpayer may petition for or the tax administrators may
25 jointly require, in respect to all or any part of the taxpayer's
26 business activity, that one of the following methods be used jointly
27 by the cities to allocate or apportion gross income, if reasonable:

28 (i) Separate accounting;

29 (ii) The use of a single factor;

30 (iii) The inclusion of one or more additional factors that will
31 fairly represent the taxpayer's business activity in the city; or

32 (iv) The employment of any other method to effectuate an
33 equitable allocation and apportionment of the taxpayer's income.

34 (4) The definitions in this subsection apply throughout this
35 section.

36 (a) "Apportionable income" means the gross income of the business
37 taxable under the service classifications of a city's gross receipts
38 tax, including income received from activities outside the city if
39 the income would be taxable under the service classification if

1 received from activities within the city, less any exemptions or
2 deductions available.

3 (b) "Compensation" means wages, salaries, commissions, and any
4 other form of remuneration paid to individuals for personal services
5 that are or would be included in the individual's gross income under
6 the federal internal revenue code.

7 (c) "Individual" means any individual who, under the usual common
8 law rules applicable in determining the employer-employee
9 relationship, has the status of an employee of that taxpayer.

10 (d) "Customer location" means the city or unincorporated area of
11 a county where the majority of the contacts between the taxpayer and
12 the customer take place.

13 (e) "Primarily assigned" means the business location of the
14 taxpayer where the individual performs his or her duties.

15 (f) "Service-taxable income" or "service income" means gross
16 income of the business subject to tax under either the service or
17 royalty classification.

18 (g) "Tax period" means the calendar year during which tax
19 liability is accrued. If taxes are reported by a taxpayer on a basis
20 more frequent than once per year, taxpayers shall calculate the
21 factors for the previous calendar year for reporting in the current
22 calendar year and correct the reporting for the previous year when
23 the factors are calculated for that year, but not later than the end
24 of the first quarter of the following year.

25 (h) "Taxable in the customer location" means either that a
26 taxpayer is subject to a gross receipts tax in the customer location
27 for the privilege of doing business, or that the government where the
28 customer is located has the authority to subject the taxpayer to
29 gross receipts tax regardless of whether, in fact, the government
30 does so.

31 **Sec. 512.** RCW 82.04.060 and 2015 c 169 s 2 are each amended to
32 read as follows:

33 "Sale at wholesale" or "wholesale sale" means:

34 (1) Any sale, which is not a sale at retail, of:

35 (a) Tangible personal property;

36 (b) Services defined as a retail sale in RCW 82.04.050(2) (a) or
37 (g);

38 (c) Activities defined as a retail sale in RCW 82.04.050(15);

39 (d) Prewritten computer software;

- 1 (e) Services described in RCW 82.04.050(6)((~~b~~)) (c);
- 2 (f) Extended warranties as defined in RCW 82.04.050(7);
- 3 (g) Competitive telephone service, ancillary services, or
- 4 telecommunications service as those terms are defined in RCW
- 5 82.04.065; or
- 6 (h) Digital goods, digital codes, or digital automated services;
- 7 (2) Any charge made for labor and services rendered for persons
- 8 who are not consumers, in respect to real or personal property, if
- 9 such charge is expressly defined as a retail sale by RCW 82.04.050
- 10 when rendered to or for consumers. For the purposes of this
- 11 subsection (2), "real or personal property" does not include any
- 12 natural products named in RCW 82.04.100; and
- 13 (3) The sale of any service for resale, if the sale is excluded
- 14 from the definition of "sale at retail" and "retail sale" in RCW
- 15 82.04.050(14).

16 **Sec. 513.** RCW 82.04.190 and 2015 c 169 s 3 are each amended to

17 read as follows:

18 "Consumer" means the following:

19 (1) Any person who purchases, acquires, owns, holds, or uses any

20 article of tangible personal property irrespective of the nature of

21 the person's business and including, among others, without limiting

22 the scope hereof, persons who install, repair, clean, alter, improve,

23 construct, or decorate real or personal property of or for consumers

24 other than for the purpose of:

25 (a) Resale as tangible personal property in the regular course of

26 business;

27 (b) Incorporating such property as an ingredient or component of

28 real or personal property when installing, repairing, cleaning,

29 altering, imprinting, improving, constructing, or decorating such

30 real or personal property of or for consumers;

31 (c) Consuming such property in producing for sale as a new

32 article of tangible personal property or a new substance, of which

33 such property becomes an ingredient or component or as a chemical

34 used in processing, when the primary purpose of such chemical is to

35 create a chemical reaction directly through contact with an

36 ingredient of a new article being produced for sale;

37 (d) Consuming the property purchased in producing ferrosilicon

38 which is subsequently used in producing magnesium for sale, if the

1 primary purpose of such property is to create a chemical reaction
2 directly through contact with an ingredient of ferrosilicon; or

3 (e) Satisfying the person's obligations under an extended
4 warranty as defined in RCW 82.04.050(7), if such tangible personal
5 property replaces or becomes an ingredient or component of property
6 covered by the extended warranty without intervening use by such
7 person;

8 (2)(a) Any person engaged in any business activity taxable under
9 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires,
10 or uses any competitive telephone service, ancillary services, or
11 telecommunications service as those terms are defined in RCW
12 82.04.065, other than for resale in the regular course of business;
13 (c) any person who purchases, acquires, or uses any service defined
14 in RCW 82.04.050(2) (a) or (g), other than for resale in the regular
15 course of business or for the purpose of satisfying the person's
16 obligations under an extended warranty as defined in RCW
17 82.04.050(7); (d) any person who makes a purchase meeting the
18 definition of "sale at retail" and "retail sale" under RCW
19 82.04.050(15), other than for resale in the regular course of
20 business; (e) any person who purchases or acquires an extended
21 warranty as defined in RCW 82.04.050(7) other than for resale in the
22 regular course of business; and (f) any person who is an end user of
23 software. For purposes of this subsection (2)(f) and RCW
24 82.04.050(6), a person who purchases or otherwise acquires prewritten
25 computer software, who provides services described in RCW
26 82.04.050(6)((~~b~~)) (c) and who will charge consumers for the right
27 to access and use the prewritten computer software, is not an end
28 user of the prewritten computer software;

29 (3) Any person engaged in the business of contracting for the
30 building, repairing or improving of any street, place, road, highway,
31 easement, right-of-way, mass public transportation terminal or
32 parking facility, bridge, tunnel, or trestle which is owned by a
33 municipal corporation or political subdivision of the state of
34 Washington or by the United States and which is used or to be used
35 primarily for foot or vehicular traffic including mass transportation
36 vehicles of any kind as defined in RCW 82.04.280, in respect to
37 tangible personal property when such person incorporates such
38 property as an ingredient or component of such publicly owned street,
39 place, road, highway, easement, right-of-way, mass public
40 transportation terminal or parking facility, bridge, tunnel, or

1 trestle by installing, placing or spreading the property in or upon
2 the right-of-way of such street, place, road, highway, easement,
3 bridge, tunnel, or trestle or in or upon the site of such mass public
4 transportation terminal or parking facility;

5 (4) Any person who is an owner, lessee or has the right of
6 possession to or an easement in real property which is being
7 constructed, repaired, decorated, improved, or otherwise altered by a
8 person engaged in business, excluding only (a) municipal corporations
9 or political subdivisions of the state in respect to labor and
10 services rendered to their real property which is used or held for
11 public road purposes, and (b) the United States, instrumentalities
12 thereof, and county and city housing authorities created pursuant to
13 chapter 35.82 RCW in respect to labor and services rendered to their
14 real property. Nothing contained in this or any other subsection of
15 this definition may be construed to modify any other definition of
16 "consumer";

17 (5) Any person who is an owner, lessee, or has the right of
18 possession to personal property which is being constructed, repaired,
19 improved, cleaned, imprinted, or otherwise altered by a person
20 engaged in business;

21 (6) Any person engaged in the business of constructing,
22 repairing, decorating, or improving new or existing buildings or
23 other structures under, upon, or above real property of or for the
24 United States, any instrumentality thereof, or a county or city
25 housing authority created pursuant to chapter 35.82 RCW, including
26 the installing or attaching of any article of tangible personal
27 property therein or thereto, whether or not such personal property
28 becomes a part of the realty by virtue of installation; also, any
29 person engaged in the business of clearing land and moving earth of
30 or for the United States, any instrumentality thereof, or a county or
31 city housing authority created pursuant to chapter 35.82 RCW. Any
32 such person is a consumer within the meaning of this subsection in
33 respect to tangible personal property incorporated into, installed
34 in, or attached to such building or other structure by such person,
35 except that consumer does not include any person engaged in the
36 business of constructing, repairing, decorating, or improving new or
37 existing buildings or other structures under, upon, or above real
38 property of or for the United States, or any instrumentality thereof,
39 if the investment project would qualify for sales and use tax
40 deferral under chapter 82.63 RCW if undertaken by a private entity;

1 (7) Any person who is a lessor of machinery and equipment, the
2 rental of which is exempt from the tax imposed by RCW 82.08.020 under
3 RCW 82.08.02565, with respect to the sale of or charge made for
4 tangible personal property consumed in respect to repairing the
5 machinery and equipment, if the tangible personal property has a
6 useful life of less than one year. Nothing contained in this or any
7 other subsection of this section may be construed to modify any other
8 definition of "consumer";

9 (8) Any person engaged in the business of cleaning up for the
10 United States, or its instrumentalities, radioactive waste and other
11 by-products of weapons production and nuclear research and
12 development;

13 (9) Any person who is an owner, lessee, or has the right of
14 possession of tangible personal property that, under the terms of an
15 extended warranty as defined in RCW 82.04.050(7), has been repaired
16 or is replacement property, but only with respect to the sale of or
17 charge made for the repairing of the tangible personal property or
18 the replacement property;

19 (10) Any person who purchases, acquires, or uses services
20 described in RCW 82.04.050(6)((~~b~~)) (c) other than:

21 (a) For resale in the regular course of business; or

22 (b) For purposes of consuming the service described in RCW
23 82.04.050(6)((~~b~~)) (c) in producing for sale a new product, but only
24 if such service becomes a component of the new product. For purposes
25 of this subsection (10), "product" means a digital product, an
26 article of tangible personal property, or the service described in
27 RCW 82.04.050(6)((~~b~~)) (c);

28 (11)(a) Any end user of a digital product or digital code.
29 "Consumer" does not include any person who is not an end user of a
30 digital product or a digital code and purchases, acquires, owns,
31 holds, or uses any digital product or digital code for purposes of
32 consuming the digital product or digital code in producing for sale a
33 new product, but only if the digital product or digital code becomes
34 a component of the new product. A digital code becomes a component of
35 a new product if the digital good or digital automated service
36 acquired through the use of the digital code becomes incorporated
37 into a new product. For purposes of this subsection, "product" has
38 the same meaning as in subsection (10) of this section.

39 (b)(i) For purposes of this subsection, "end user" means any
40 taxpayer as defined in RCW 82.12.010 other than a taxpayer who

1 receives by contract a digital product for further commercial
2 broadcast, rebroadcast, transmission, retransmission, licensing,
3 relicensing, distribution, redistribution or exhibition of the
4 product, in whole or in part, to others. A person that purchases
5 digital products or digital codes for the purpose of giving away such
6 products or codes will not be considered to have engaged in the
7 distribution or redistribution of such products or codes and will be
8 treated as an end user;

9 (ii) If a purchaser of a digital code does not receive the
10 contractual right to further redistribute, after the digital code is
11 redeemed, the underlying digital product to which the digital code
12 relates, then the purchaser of the digital code is an end user. If
13 the purchaser of the digital code receives the contractual right to
14 further redistribute, after the digital code is redeemed, the
15 underlying digital product to which the digital code relates, then
16 the purchaser of the digital code is not an end user. A purchaser of
17 a digital code who has the contractual right to further redistribute
18 the digital code is an end user if that purchaser does not have the
19 right to further redistribute, after the digital code is redeemed,
20 the underlying digital product to which the digital code relates;

21 (12) Any person who provides services described in RCW
22 82.04.050(9). Any such person is a consumer with respect to the
23 purchase, acquisition, or use of the tangible personal property that
24 the person provides along with an operator in rendering services
25 defined as a retail sale in RCW 82.04.050(9). Any such person may
26 also be a consumer under other provisions of this section;

27 (13) Any person who purchases, acquires, owns, holds, or uses
28 chemical sprays or washes for the purpose of postharvest treatment of
29 fruit for the prevention of scald, fungus, mold, or decay, or who
30 purchases feed, seed, seedlings, fertilizer, agents for enhanced
31 pollination including insects such as bees, and spray materials, is
32 not a consumer of such items, but only to the extent that the items:

33 (a) Are used in relation to the person's participation in the
34 federal conservation reserve program, the environmental quality
35 incentives program, the wetlands reserve program, the wildlife
36 habitat incentives program, or their successors administered by the
37 United States department of agriculture;

38 (b) Are for use by a farmer for the purpose of producing for sale
39 any agricultural product; or

1 (c) Are for use by a farmer to produce or improve wildlife
2 habitat on land the farmer owns or leases while acting under
3 cooperative habitat development or access contracts with an
4 organization exempt from federal income tax under 26 U.S.C. Sec.
5 501(c)(3) of the federal internal revenue code or the Washington
6 state department of fish and wildlife; and

7 (14) A regional transit authority is not a consumer with respect
8 to labor, services, or tangible personal property purchased pursuant
9 to agreements providing maintenance services for bus, rail, or rail
10 fixed guideway equipment when a transit agency, as defined in RCW
11 81.104.015, performs the labor or services.

12 **Sec. 514.** RCW 82.04.192 and 2010 c 111 s 203 are each amended to
13 read as follows:

14 (1) "Digital audio works" means works that result from the
15 fixation of a series of musical, spoken, or other sounds, including
16 ringtones.

17 (2) "Digital audiovisual works" means a series of related images
18 which, when shown in succession, impart an impression of motion,
19 together with accompanying sounds, if any.

20 (3)(a) "Digital automated service," except as provided in (b) of
21 this subsection (3), means any service transferred electronically
22 that uses one or more software applications.

23 (b) "Digital automated service" does not include:

24 (i) Any service that primarily involves the application of human
25 effort by the seller, and the human effort originated after the
26 customer requested the service;

27 (ii) The loaning or transferring of money or the purchase, sale,
28 or transfer of financial instruments. For purposes of this subsection
29 (3)(b)(ii), "financial instruments" include cash, accounts receivable
30 and payable, loans and notes receivable and payable, debt securities,
31 equity securities, as well as derivative contracts such as forward
32 contracts, swap contracts, and options;

33 (iii) Dispensing cash or other physical items from a machine;

34 (iv) Payment processing services;

35 (v) Parimutuel wagering and handicapping contests as authorized
36 by chapter 67.16 RCW;

37 (vi) Telecommunications services and ancillary services as those
38 terms are defined in RCW 82.04.065;

1 (vii) The internet and internet access as those terms are defined
2 in RCW 82.04.297;

3 (viii) The service described in RCW 82.04.050(6)((~~b~~)) (c);

4 (ix) Online educational programs provided by a:

5 (A) Public or private elementary or secondary school; or

6 (B) An institution of higher education as defined in sections
7 1001 or 1002 of the federal higher education act of 1965 (Title 20
8 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For
9 purposes of this subsection (3)(b)(ix)(B), an online educational
10 program must be encompassed within the institution's accreditation;

11 (x) Live presentations, such as lectures, seminars, workshops, or
12 courses, where participants are connected to other participants via
13 the internet or telecommunications equipment, which allows audience
14 members and the presenter or instructor to give, receive, and discuss
15 information with each other in real time;

16 (xi) Travel agent services, including online travel services, and
17 automated systems used by travel agents to book reservations;

18 (xii)(A) A service that allows the person receiving the service
19 to make online sales of products or services, digital or otherwise,
20 using either: (I) The service provider's web site; or (II) the
21 service recipient's web site, but only when the service provider's
22 technology is used in creating or hosting the service recipient's web
23 site or is used in processing orders from customers using the service
24 recipient's web site.

25 (B) The service described in this subsection (3)(b)(xii) does not
26 include the underlying sale of the products or services, digital or
27 otherwise, by the person receiving the service;

28 (xiii) Advertising services. For purposes of this subsection
29 (3)(b)(xiii), "advertising services" means all services directly
30 related to the creation, preparation, production, or the
31 dissemination of advertisements. Advertising services include layout,
32 art direction, graphic design, mechanical preparation, production
33 supervision, placement, and rendering advice to a client concerning
34 the best methods of advertising that client's products or services.
35 Advertising services also include online referrals, search engine
36 marketing and lead generation optimization, web campaign planning,
37 the acquisition of advertising space in the internet media, and the
38 monitoring and evaluation of web site traffic for purposes of
39 determining the effectiveness of an advertising campaign. Advertising

1 services do not include web hosting services and domain name
2 registration;

3 (xiv) The mere storage of digital products, digital codes,
4 computer software, or master copies of software. This exclusion from
5 the definition of digital automated services includes providing space
6 on a server for web hosting or the backing up of data or other
7 information;

8 (xv) Data processing services. For purposes of this subsection
9 (3)(b)(xv), "data processing service" means a primarily automated
10 service provided to a business or other organization where the
11 primary object of the service is the systematic performance of
12 operations by the service provider on data supplied in whole or in
13 part by the customer to extract the required information in an
14 appropriate form or to convert the data to usable information. Data
15 processing services include check processing, image processing, form
16 processing, survey processing, payroll processing, claim processing,
17 and similar activities. Data processing does not include the service
18 described in RCW 82.04.050(6)((~~b~~)) (c); and

19 (xvi) Digital goods.

20 (4) "Digital books" means works that are generally recognized in
21 the ordinary and usual sense as books.

22 (5) "Digital code" means a code that provides a purchaser with
23 the right to obtain one or more digital products, if all of the
24 digital products to be obtained through the use of the code have the
25 same sales and use tax treatment. "Digital code" does not include a
26 code that represents a stored monetary value that is deducted from a
27 total as it is used by the purchaser. "Digital code" also does not
28 include a code that represents a redeemable card, gift card, or gift
29 certificate that entitles the holder to select digital products of an
30 indicated cash value. A digital code may be obtained by any means,
31 including email or by tangible means regardless of its designation as
32 song code, video code, book code, or some other term.

33 (6)(a) "Digital goods," except as provided in (b) of this
34 subsection (6), means sounds, images, data, facts, or information, or
35 any combination thereof, transferred electronically, including, but
36 not limited to, specified digital products and other products
37 transferred electronically not included within the definition of
38 specified digital products.

39 (b) The term "digital goods" does not include:

1 (i) Telecommunications services and ancillary services as those
2 terms are defined in RCW 82.04.065;

3 (ii) Computer software as defined in RCW 82.04.215;

4 (iii) The internet and internet access as those terms are defined
5 in RCW 82.04.297;

6 (iv)(A) Except as provided in (b)(iv)(B) of this subsection (6),
7 the representation of a personal or professional service in
8 electronic form, such as an electronic copy of an engineering report
9 prepared by an engineer, where the service primarily involves the
10 application of human effort by the service provider, and the human
11 effort originated after the customer requested the service.

12 (B) The exclusion in (b)(iv)(A) of this subsection (6) does not
13 apply to photographers in respect to amounts received for the taking
14 of photographs that are transferred electronically to the customer,
15 but only if the customer is an end user, as defined in RCW
16 82.04.190(11), of the photographs. Such amounts are considered to be
17 for the sale of digital goods; and

18 (v) Services and activities excluded from the definition of
19 digital automated services in subsection (3)(b)(i) through (xv) of
20 this section and not otherwise described in (b)(i) through (iv) of
21 this subsection (6).

22 (7) "Digital products" means digital goods and digital automated
23 services.

24 (8) "Electronically transferred" or "transferred electronically"
25 means obtained by the purchaser by means other than tangible storage
26 media. It is not necessary that a copy of the product be physically
27 transferred to the purchaser. So long as the purchaser may access the
28 product, it will be considered to have been electronically
29 transferred to the purchaser.

30 (9) "Specified digital products" means electronically transferred
31 digital audiovisual works, digital audio works, and digital books.

32 (10) "Subscription radio services" means the sale of audio
33 programming by a radio broadcaster as defined in RCW 82.08.02081,
34 except as otherwise provided in this subsection. "Subscription radio
35 services" does not include audio programming that is sold on a pay-
36 per-program basis or that allows the buyer to access a library of
37 programs at any time for a specific charge for that service.

38 (11) "Subscription television services" means the sale of video
39 programming by a television broadcaster as defined in RCW
40 82.08.02081, except as otherwise provided in this subsection.

1 "Subscription television services" does not include video programming
2 that is sold on a pay-per-program basis or that allows the buyer to
3 access a library of programs at any time for a specific charge for
4 that service, but only if the seller is not subject to a franchise
5 fee in this state under the authority of Title 47 U.S.C. Sec. 542(a)
6 on the gross revenue derived from the sale.

7 **Sec. 515.** RCW 82.04.257 and 2010 c 111 s 301 are each amended to
8 read as follows:

9 (1) Except as provided in subsection (2) of this section, upon
10 every person engaging within this state in the business of making
11 sales at retail or wholesale of digital goods, digital codes, digital
12 automated services, or services described in RCW 82.04.050 (2)(g) or
13 (6)((~~b~~)) (c), as to such persons, the amount of tax with respect to
14 such business is equal to the gross proceeds of sales of the
15 business, multiplied by the rate of 0.471 percent in the case of
16 retail sales and by the rate of 0.484 percent in the case of
17 wholesale sales.

18 (2) Persons providing subscription television services or
19 subscription radio services are subject to tax under RCW 82.04.290(2)
20 on the gross income of the business received from providing such
21 services.

22 (3) For purposes of this section, a person is considered to be
23 engaging within this state in the business of making sales of digital
24 goods, digital codes, digital automated services, or services
25 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c), if the person
26 makes sales of digital goods, digital codes, digital automated
27 services, or services described in RCW 82.04.050 (2)(g) or (6)((~~b~~))
28 (c) and the sales are sourced to this state under RCW 82.32.730 for
29 sales tax purposes or would have been sourced to this state under RCW
30 82.32.730 if the sale had been taxable under chapter 82.08 RCW.

31 (4) A person subject to tax under this section is subject to the
32 mandatory electronic filing and payment requirements in RCW
33 82.32.080.

34 **Sec. 516.** RCW 82.04.258 and 2009 c 535 s 402 are each amended to
35 read as follows:

36 (1)(a) Any person subject to tax under RCW 82.04.257 engaging
37 both within and outside this state in the business of making sales at
38 retail or wholesale of digital goods, digital codes, digital

1 automated services, or services described in RCW 82.04.050 (2)(g) or
2 (6)((~~b~~)) (c), must apportion to this state that portion of
3 apportionable income derived from activity performed within this
4 state as provided in subsection (2) of this section.

5 (b) For purposes of this subsection, a person is considered to be
6 engaging outside this state in the business of making sales of
7 digital goods, digital codes, digital automated services, or services
8 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c) if the person
9 makes any sales of digital goods, digital codes, digital automated
10 services, or services described in RCW 82.04.050 (2)(g) or (6)((~~b~~))
11 (c) that are sourced to a jurisdiction other than Washington under
12 RCW 82.32.730 for sales tax purposes or would have been sourced to a
13 jurisdiction other than Washington under RCW 82.32.730 if the sale
14 had been a retail sale.

15 (2) Apportionable income must be apportioned to Washington by
16 multiplying the apportionable income by the sales factor.

17 (3)(a) The sales factor is a fraction, the numerator of which is
18 the total receipts of the taxpayer from making sales of digital
19 goods, digital codes, digital automated services, and services
20 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c) in this state
21 during the tax period, and the denominator of which is the total
22 receipts of the taxpayer derived from such activity everywhere during
23 the tax period.

24 (b) For purposes of computing the sales factor, sales are
25 considered in this state if the sale was sourced to this state under
26 RCW 82.32.730 for sales tax purposes or would have been sourced to
27 this state under RCW 82.32.730 if the sale had been taxable under
28 chapter 82.08 RCW.

29 (4) For purposes of this section, "apportionable income" means
30 the gross income of the business taxable under RCW 82.04.257,
31 including income received from activities outside this state if the
32 income would be taxable under RCW 82.04.257 if received from
33 activities in this state.

34 **Sec. 517.** RCW 82.08.02082 and 2010 c 111 s 401 are each amended
35 to read as follows:

36 (1) The tax imposed by RCW 82.08.020 does not apply to a business
37 or other organization for the purpose of making the digital good or
38 digital automated service, including a digital good or digital
39 automated service acquired through the use of a digital code, or

1 service defined as a retail sale in RCW 82.04.050(6)((~~b~~)) (c)
2 available free of charge for the use or enjoyment of the general
3 public. The exemption provided in this section does not apply unless
4 the purchaser has the legal right to broadcast, rebroadcast,
5 transmit, retransmit, license, relicense, distribute, redistribute,
6 or exhibit the product, in whole or in part, to the general public.

7 (2) The exemption is available only when the buyer provides 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 (3) For purposes of this section, "general public" means all
12 persons and not limited or restricted to a particular class of
13 persons, except that the general public includes:

14 (a) A class of persons that is defined as all persons residing or
15 owning property within the boundaries of a state, political
16 subdivision of a state, or a municipal corporation; and

17 (b) With respect to libraries, authorized library patrons.

18 **Sec. 518.** RCW 82.08.02088 and 2009 c 535 s 701 are each amended
19 to read as follows:

20 (1) The tax imposed by RCW 82.08.020 does not apply to the sale
21 of digital goods, digital codes, digital automated services,
22 prewritten computer software, or services defined as a retail sale in
23 RCW 82.04.050(6)((~~b~~)) (c) to a buyer that provides the seller with
24 an exemption certificate claiming multiple points of use. An
25 exemption certificate claiming multiple points of use must be in a
26 form and contain such information as required by the department.

27 (2) A buyer is entitled to use an exemption certificate claiming
28 multiple points of use only if the buyer is a business or other
29 organization and the digital goods or digital automated services
30 purchased, or the digital goods or digital automated services to be
31 obtained by the digital code purchased, or the prewritten computer
32 software or services defined as a retail sale in RCW 82.04.050(6)
33 ((~~b~~)) (c) purchased will be concurrently available for use within
34 and outside this state. A buyer is not entitled to use an exemption
35 certificate claiming multiple points of use for digital goods,
36 digital codes, digital automated services, prewritten computer
37 software, or services defined as a retail sale in RCW 82.04.050(6)
38 ((~~b~~)) (c) purchased for personal use.

1 (3) A buyer claiming an exemption under this section must report
2 and pay the tax imposed in RCW 82.12.020 and any local use taxes
3 imposed under the authority of chapter 82.14 RCW and RCW 81.104.170
4 directly to the department in accordance with RCW 82.12.02088 and
5 82.14.457.

6 (4) For purposes of this section, "concurrently available for use
7 within and outside this state" means that employees or other agents
8 of the buyer may use the digital goods, digital automated services,
9 prewritten computer software, or services defined as a retail sale in
10 RCW 82.04.050(6)((~~b~~)) (c) simultaneously from one or more locations
11 within this state and one or more locations outside this state. A
12 digital code is concurrently available for use within and outside
13 this state if employees or other agents of the buyer may use the
14 digital goods or digital automated services to be obtained by the
15 code simultaneously at one or more locations within this state and
16 one or more locations outside this state.

17 **Sec. 519.** RCW 82.12.010 and 2015 c 169 s 5 are each amended to
18 read as follows:

19 For the purposes of this chapter:

20 (1) The meaning ascribed to words and phrases in chapters 82.04
21 and 82.08 RCW, insofar as applicable, has full force and effect with
22 respect to taxes imposed under the provisions of this chapter.
23 "Consumer," in addition to the meaning ascribed to it in chapters
24 82.04 and 82.08 RCW insofar as applicable, also means any person who
25 distributes or displays, or causes to be distributed or displayed,
26 any article of tangible personal property, except newspapers, the
27 primary purpose of which is to promote the sale of products or
28 services. With respect to property distributed to persons within this
29 state by a consumer as defined in this subsection (1), the use of the
30 property is deemed to be by such consumer.

31 (2) "Extended warranty" has the same meaning as in RCW
32 82.04.050(7).

33 (3) "Purchase price" means the same as sales price as defined in
34 RCW 82.08.010.

35 (4)(a)(i) Except as provided in (a)(ii) of this subsection (4),
36 "retailer" means every seller as defined in RCW 82.08.010 and every
37 person engaged in the business of selling tangible personal property
38 at retail and every person required to collect from purchasers the
39 tax imposed under this chapter.

1 (ii) "Retailer" does not include a professional employer
2 organization when a covered employee coemployed with the client under
3 the terms of a professional employer agreement engages in activities
4 that constitute a sale of tangible personal property, extended
5 warranty, digital good, digital code, or a sale of any digital
6 automated service or service defined as a retail sale in RCW
7 82.04.050 (2) (a) or (g) or (6)((~~b~~)) (c) that is subject to the tax
8 imposed by this chapter. In such cases, the client, and not the
9 professional employer organization, is deemed to be the retailer and
10 is responsible for collecting and remitting the tax imposed by this
11 chapter.

12 (b) For the purposes of (a) of this subsection, the terms
13 "client," "covered employee," "professional employer agreement," and
14 "professional employer organization" have the same meanings as in RCW
15 82.04.540.

16 (5) "Taxpayer" and "purchaser" include all persons included
17 within the meaning of the word "buyer" and the word "consumer" as
18 defined in chapters 82.04 and 82.08 RCW.

19 (6) "Use," "used," "using," or "put to use" have their ordinary
20 meaning, and mean:

21 (a) With respect to tangible personal property, except for
22 natural gas and manufactured gas, the first act within this state by
23 which the taxpayer takes or assumes dominion or control over the
24 article of tangible personal property (as a consumer), and include
25 installation, storage, withdrawal from storage, distribution, or any
26 other act preparatory to subsequent actual use or consumption within
27 this state;

28 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
29 first act within this state after the service has been performed by
30 which the taxpayer takes or assumes dominion or control over the
31 article of tangible personal property upon which the service was
32 performed (as a consumer), and includes installation, storage,
33 withdrawal from storage, distribution, or any other act preparatory
34 to subsequent actual use or consumption of the article within this
35 state;

36 (c) With respect to an extended warranty, the first act within
37 this state after the extended warranty has been acquired by which the
38 taxpayer takes or assumes dominion or control over the article of
39 tangible personal property to which the extended warranty applies,
40 and includes installation, storage, withdrawal from storage,

1 distribution, or any other act preparatory to subsequent actual use
2 or consumption of the article within this state;

3 (d) With respect to a digital good or digital code, the first act
4 within this state by which the taxpayer, as a consumer, views,
5 accesses, downloads, possesses, stores, opens, manipulates, or
6 otherwise uses or enjoys the digital good or digital code;

7 (e) With respect to a digital automated service, the first act
8 within this state by which the taxpayer, as a consumer, uses, enjoys,
9 or otherwise receives the benefit of the service;

10 (f) With respect to a service defined as a retail sale in RCW
11 82.04.050(6)((~~b~~)) (c), the first act within this state by which the
12 taxpayer, as a consumer, accesses the prewritten computer software;

13 (g) With respect to a service defined as a retail sale in RCW
14 82.04.050(2)(g), the first act within this state after the service
15 has been performed by which the taxpayer, as a consumer, views,
16 accesses, downloads, possesses, stores, opens, manipulates, or
17 otherwise uses or enjoys the digital good upon which the service was
18 performed; and

19 (h) With respect to natural gas or manufactured gas, the use of
20 which is taxable under RCW 82.12.022, including gas that is also
21 taxable under the authority of RCW 82.14.230, the first act within
22 this state by which the taxpayer consumes the gas by burning the gas
23 or storing the gas in the taxpayer's own facilities for later
24 consumption by the taxpayer.

25 (7)(a) "Value of the article used" is the purchase price for the
26 article of tangible personal property, the use of which is taxable
27 under this chapter. The term also includes, in addition to the
28 purchase price, the amount of any tariff or duty paid with respect to
29 the importation of the article used. In case the article used is
30 acquired by lease or by gift or is extracted, produced, or
31 manufactured by the person using the same or is sold under conditions
32 wherein the purchase price does not represent the true value thereof,
33 the value of the article used is determined as nearly as possible
34 according to the retail selling price at place of use of similar
35 products of like quality and character under such rules as the
36 department may prescribe.

37 (b) In case the articles used are acquired by bailment, the value
38 of the use of the articles so used must be in an amount representing
39 a reasonable rental for the use of the articles so bailed, determined
40 as nearly as possible according to the value of such use at the

1 places of use of similar products of like quality and character under
2 such rules as the department of revenue may prescribe. In case any
3 such articles of tangible personal property are used in respect to
4 the construction, repairing, decorating, or improving of, and which
5 become or are to become an ingredient or component of, new or
6 existing buildings or other structures under, upon, or above real
7 property of or for the United States, any instrumentality thereof, or
8 a county or city housing authority created pursuant to chapter 35.82
9 RCW, including the installing or attaching of any such articles
10 therein or thereto, whether or not such personal property becomes a
11 part of the realty by virtue of installation, then the value of the
12 use of such articles so used is determined according to the retail
13 selling price of such articles, or in the absence of such a selling
14 price, as nearly as possible according to the retail selling price at
15 place of use of similar products of like quality and character or, in
16 the absence of either of these selling price measures, such value may
17 be determined upon a cost basis, in any event under such rules as the
18 department of revenue may prescribe.

19 (c) In the case of articles owned by a user engaged in business
20 outside the state which are brought into the state for no more than
21 one hundred eighty days in any period of three hundred sixty-five
22 consecutive days and which are temporarily used for business purposes
23 by the person in this state, the value of the article used must be an
24 amount representing a reasonable rental for the use of the articles,
25 unless the person has paid tax under this chapter or chapter 82.08
26 RCW upon the full value of the article used, as defined in (a) of
27 this subsection.

28 (d) In the case of articles manufactured or produced by the user
29 and used in the manufacture or production of products sold or to be
30 sold to the department of defense of the United States, the value of
31 the articles used is determined according to the value of the
32 ingredients of such articles.

33 (e) In the case of an article manufactured or produced for
34 purposes of serving as a prototype for the development of a new or
35 improved product, the value of the article used is determined by: (i)
36 The retail selling price of such new or improved product when first
37 offered for sale; or (ii) the value of materials incorporated into
38 the prototype in cases in which the new or improved product is not
39 offered for sale.

1 (f) In the case of an article purchased with a direct pay permit
2 under RCW 82.32.087, the value of the article used is determined by
3 the purchase price of such article if, but for the use of the direct
4 pay permit, the transaction would have been subject to sales tax.

5 (8) "Value of the digital good or digital code used" means the
6 purchase price for the digital good or digital code, the use of which
7 is taxable under this chapter. If the digital good or digital code is
8 acquired other than by purchase, the value of the digital good or
9 digital code must be determined as nearly as possible according to
10 the retail selling price at place of use of similar digital goods or
11 digital codes of like quality and character under rules the
12 department may prescribe.

13 (9) "Value of the extended warranty used" means the purchase
14 price for the extended warranty, the use of which is taxable under
15 this chapter. If the extended warranty is received by gift or under
16 conditions wherein the purchase price does not represent the true
17 value of the extended warranty, the value of the extended warranty
18 used is determined as nearly as possible according to the retail
19 selling price at place of use of similar extended warranties of like
20 quality and character under rules the department may prescribe.

21 (10) "Value of the service used" means the purchase price for the
22 digital automated service or other service, the use of which is
23 taxable under this chapter. If the service is received by gift or
24 under conditions wherein the purchase price does not represent the
25 true value thereof, the value of the service used is determined as
26 nearly as possible according to the retail selling price at place of
27 use of similar services of like quality and character under rules the
28 department may prescribe.

29 **Sec. 520.** RCW 82.12.020 and 2015 c 169 s 6 are each amended to
30 read as follows:

31 (1) There is levied and collected from every person in this state
32 a tax or excise for the privilege of using within this state as a
33 consumer any:

34 (a) Article of tangible personal property acquired by the user in
35 any manner, including tangible personal property acquired at a casual
36 or isolated sale, and including by-products used by the manufacturer
37 thereof, except as otherwise provided in this chapter, irrespective
38 of whether the article or similar articles are manufactured or are
39 available for purchase within this state;

1 (b) Prewritten computer software, regardless of the method of
2 delivery, but excluding prewritten computer software that is either
3 provided free of charge or is provided for temporary use in viewing
4 information, or both;

5 (c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or
6 (g) or (6)((~~b~~)) (c), excluding services defined as a retail sale in
7 RCW 82.04.050(6)((~~b~~)) (c) that are provided free of charge;

8 (d) Extended warranty; or

9 (e)(i) Digital good, digital code, or digital automated service,
10 including the use of any services provided by a seller exclusively in
11 connection with digital goods, digital codes, or digital automated
12 services, whether or not a separate charge is made for such services.

13 (ii) With respect to the use of digital goods, digital automated
14 services, and digital codes acquired by purchase, the tax imposed in
15 this subsection (1)(e) applies in respect to:

16 (A) Sales in which the seller has granted the purchaser the right
17 of permanent use;

18 (B) Sales in which the seller has granted the purchaser a right
19 of use that is less than permanent;

20 (C) Sales in which the purchaser is not obligated to make
21 continued payment as a condition of the sale; and

22 (D) Sales in which the purchaser is obligated to make continued
23 payment as a condition of the sale.

24 (iii) With respect to digital goods, digital automated services,
25 and digital codes acquired other than by purchase, the tax imposed in
26 this subsection (1)(e) applies regardless of whether or not the
27 consumer has a right of permanent use or is obligated to make
28 continued payment as a condition of use.

29 (2) The provisions of this chapter do not apply in respect to the
30 use of any article of tangible personal property, extended warranty,
31 digital good, digital code, digital automated service, or service
32 taxable under RCW 82.04.050 (2) (a) or (g) or (6)((~~b~~)) (c), if the
33 sale to, or the use by, the present user or the present user's bailor
34 or donor has already been subjected to the tax under chapter 82.08
35 RCW or this chapter and the tax has been paid by the present user or
36 by the present user's bailor or donor.

37 (3)(a) Except as provided in this section, payment of the tax
38 imposed by this chapter or chapter 82.08 RCW by one purchaser or user
39 of tangible personal property, extended warranty, digital good,
40 digital code, digital automated service, or other service does not

1 have the effect of exempting any other purchaser or user of the same
2 property, extended warranty, digital good, digital code, digital
3 automated service, or other service from the taxes imposed by such
4 chapters.

5 (b) The tax imposed by this chapter does not apply:

6 (i) If the sale to, or the use by, the present user or his or her
7 bailor or donor has already been subjected to the tax under chapter
8 82.08 RCW or this chapter and the tax has been paid by the present
9 user or by his or her bailor or donor;

10 (ii) In respect to the use of any article of tangible personal
11 property acquired by bailment and the tax has once been paid based on
12 reasonable rental as determined by RCW 82.12.060 measured by the
13 value of the article at time of first use multiplied by the tax rate
14 imposed by chapter 82.08 RCW or this chapter as of the time of first
15 use;

16 (iii) In respect to the use of any article of tangible personal
17 property acquired by bailment, if the property was acquired by a
18 previous bailee from the same bailor for use in the same general
19 activity and the original bailment was prior to June 9, 1961; or

20 (iv) To the use of digital goods or digital automated services,
21 which were obtained through the use of a digital code, if the sale of
22 the digital code to, or the use of the digital code by, the present
23 user or the present user's bailor or donor has already been subjected
24 to the tax under chapter 82.08 RCW or this chapter and the tax has
25 been paid by the present user or by the present user's bailor or
26 donor.

27 (4)(a) Except as provided in (b) of this subsection (4), the tax
28 is levied and must be collected in an amount equal to the value of
29 the article used, value of the digital good or digital code used,
30 value of the extended warranty used, or value of the service used by
31 the taxpayer, multiplied by the applicable rates in effect for the
32 retail sales tax under RCW 82.08.020.

33 (b) In the case of a seller required to collect use tax from the
34 purchaser, the tax must be collected in an amount equal to the
35 purchase price multiplied by the applicable rate in effect for the
36 retail sales tax under RCW 82.08.020.

37 (5) For purposes of the tax imposed in this section, "person"
38 includes anyone within the definition of "buyer," "purchaser," and
39 "consumer" in RCW 82.08.010.

1 **Sec. 521.** RCW 82.12.02082 and 2010 c 111 s 501 are each amended
2 to read as follows:

3 The provisions of this chapter do not apply to the use by a
4 business or other organization of digital goods, digital codes,
5 digital automated services, or services defined as a retail sale in
6 RCW 82.04.050(6)((~~b~~)) (c) for the purpose of making the digital
7 good or digital automated service, including a digital good or
8 digital automated service acquired through the use of a digital code,
9 or service defined as a retail sale in RCW 82.04.050(6)((~~b~~)) (c)
10 available free of charge for the use or enjoyment of the general
11 public. For purposes of this section, "general public" has the same
12 meaning as in RCW 82.08.02082. The exemption provided in this section
13 does not apply unless the user has the legal right to broadcast,
14 rebroadcast, transmit, retransmit, license, relicense, distribute,
15 redistribute, or exhibit the product, in whole or in part, to the
16 general public.

17 **Sec. 522.** RCW 82.12.02088 and 2009 c 535 s 702 are each amended
18 to read as follows:

19 (1) A business or other organization subject to the tax imposed
20 in RCW 82.12.020 on the use of digital goods, digital codes, digital
21 automated services, prewritten computer software, or services defined
22 as a retail sale in RCW 82.04.050(6)((~~b~~)) (c) that are concurrently
23 available for use within and outside this state is entitled to
24 apportion the amount of tax due this state based on users in this
25 state compared to users everywhere. The department may authorize or
26 require an alternative method of apportionment supported by the
27 taxpayer's records that fairly reflects the proportion of in-state to
28 out-of-state use by the taxpayer of the digital goods, digital
29 automated services, prewritten computer software, or services defined
30 as a retail sale in RCW 82.04.050(6)((~~b~~)) (c).

31 (2) No apportionment under this section is allowed unless the
32 apportionment method is supported by the taxpayer's records kept in
33 the ordinary course of business.

34 (3) For purposes of this section, the following definitions
35 apply:

36 (a) "Concurrently available for use within and outside this
37 state" means that employees or other agents of the taxpayer may use
38 the digital goods, digital automated services, prewritten computer
39 software, or services defined as a retail sale in RCW 82.04.050(6)

1 ((b)) (c) simultaneously at one or more locations within this state
2 and one or more locations outside this state. A digital code is
3 concurrently available for use within and outside this state if
4 employees or other agents of the taxpayer may use the digital goods
5 or digital automated services to be obtained by the code
6 simultaneously at one or more locations within this state and one or
7 more locations outside this state.

8 (b) "User" means an employee or agent of the taxpayer who is
9 authorized by the taxpayer to use the digital goods, digital
10 automated services, prewritten computer software, or services defined
11 as a retail sale in RCW 82.04.050(6)((b)) (c) in the performance of
12 his or her duties as an employee or other agent of the taxpayer.

13 **Sec. 523.** RCW 82.12.0259 and 2009 c 535 s 613 are each amended
14 to read as follows:

15 The provisions of this chapter do not apply in respect to the use
16 of personal property or the use of digital automated services or
17 services defined in RCW 82.04.050 (2)(a) or (6)((b)) (c) by
18 corporations that have been incorporated under any act of the
19 congress of the United States and whose principal purposes are to
20 furnish volunteer aid to members of the armed forces of the United
21 States and also to carry on a system of national and international
22 relief and to apply the same in mitigating the sufferings caused by
23 pestilence, famine, fire, flood, and other national calamities and to
24 devise and carry on measures for preventing the same.

25 **Sec. 524.** RCW 82.12.035 and 2015 c 169 s 8 are each amended to
26 read as follows:

27 A credit is allowed against the taxes imposed by this chapter
28 upon the use in this state of tangible personal property, extended
29 warranty, digital good, digital code, digital automated service, or
30 services defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or
31 (6)((b)) (c), in the amount that the present user thereof or his or
32 her bailor or donor has paid a legally imposed retail sales or use
33 tax with respect to such property, extended warranty, digital good,
34 digital code, digital automated service, or service defined as a
35 retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((b)) (c) to any
36 other state, possession, territory, or commonwealth of the United
37 States, any political subdivision thereof, the District of Columbia,
38 and any foreign country or political subdivision thereof.

1 **Sec. 525.** RCW 82.12.040 and 2015 c 169 s 9 are each amended to
2 read as follows:

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

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

35 (3) The tax required to be collected by this chapter is deemed to
36 be held in trust by the retailer until paid to the department, and
37 any retailer who appropriates or converts the tax collected to the
38 retailer's own use or to any use other than the payment of the tax
39 provided herein to the extent that the money required to be collected
40 is not available for payment on the due date as prescribed is guilty

1 of a misdemeanor. In case any seller fails to collect the tax herein
2 imposed or having collected the tax, fails to pay the same to the
3 department in the manner prescribed, whether such failure is the
4 result of the seller's own acts or the result of acts or conditions
5 beyond the seller's control, the seller is nevertheless personally
6 liable to the state for the amount of such tax, unless the seller has
7 taken from the buyer a copy of a direct pay permit issued under RCW
8 82.32.087.

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

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

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

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

19 (ii) The taking of orders; or

20 (iii) The processing of payments; and

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

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

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

1 (8) Notwithstanding subsections (1) through (4) of this section,
2 any person making sales is not obligated to collect the tax imposed
3 by this chapter if the state is prohibited under the Constitution or
4 laws of the United States from requiring the person to collect the
5 tax imposed by this chapter.

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

10 **Sec. 526.** RCW 82.12.860 and 2015 c 169 s 10 are each amended to
11 read as follows:

12 (1) This chapter does not apply to state credit unions with
13 respect to the use of any article of tangible personal property,
14 digital good, digital code, digital automated service, service
15 defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)
16 (~~((b))~~) (c), or extended warranty, acquired from a federal credit
17 union, foreign credit union, or out-of-state credit union as a result
18 of a merger or conversion.

19 (2) For purposes of this section, the following definitions
20 apply:

21 (a) "Federal credit union" means a credit union organized and
22 operating under the laws of the United States.

23 (b) "Foreign credit union" means a credit union organized and
24 operating under the laws of another country or other foreign
25 jurisdiction.

26 (c) "Out-of-state credit union" means a credit union organized
27 and operating under the laws of another state or United States
28 territory or possession.

29 (d) "State credit union" means a credit union organized and
30 operating under the laws of this state.

31 **Sec. 527.** RCW 82.14.457 and 2009 c 535 s 703 are each amended to
32 read as follows:

33 (1) A business or other organization that is entitled under RCW
34 82.12.02088 to apportion the amount of state use tax on the use of
35 digital goods, digital codes, digital automated services, prewritten
36 computer software, or services defined as a retail sale in RCW
37 82.04.050(6)(~~((b))~~) (c) is also entitled to apportion the amount of

1 local use taxes imposed under the authority of this chapter and RCW
2 81.104.170 on the use of such products or services.

3 (2) To ensure that the tax base for state and local use taxes is
4 identical, the measure of local use taxes apportioned under this
5 section must be the same as the measure of state use tax apportioned
6 under RCW 82.12.02088.

7 (3) This section does not affect the sourcing of local use taxes.

8 **Sec. 528.** RCW 82.04.4277 and 2016 sp.s. c 29 s 532 are each
9 amended to read as follows:

10 (1) A health or social welfare organization may deduct from the
11 measure of tax amounts received as compensation for providing mental
12 health services or chemical dependency services under a government-
13 funded program.

14 (2) A behavioral health organization may deduct from the measure
15 of tax amounts received from the state of Washington for distribution
16 to a health or social welfare organization that is eligible to deduct
17 the distribution under subsection (1) of this section.

18 (3) A person claiming a deduction under this section must file a
19 complete annual report with the department under RCW 82.32.534.

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

22 (a) "Chemical dependency" has the same meaning as provided in RCW
23 70.96A.020 through March 31, 2018, and the same meaning as provided
24 in RCW 71.05.020 beginning April 1, 2018.

25 (b) "Health or social welfare organization" has the meaning
26 provided in RCW 82.04.431.

27 (c) "Mental health services" and "behavioral health organization"
28 have the meanings provided in RCW 71.24.025.

29 (5) This section expires January 1, 2020.

30 **Sec. 529.** RCW 84.12.270 and 2001 c 187 s 3 are each amended to
31 read as follows:

32 The department of revenue (~~shall~~) must annually make an
33 assessment of the operating property of all companies(~~and~~),
34 Between the fifteenth day of March and the first day of July of each
35 year (~~shall~~) the department must prepare an initial assessment roll
36 upon which (~~it shall~~) the department must enter and assess the true
37 and fair value of all the operating property of each of such
38 companies as of the first day of January of the year in which the

1 assessment is made. The department must finalize the assessment roll
2 by the twentieth day of August of each year. For the purpose of
3 determining the true and fair value of such property the department
4 of revenue may inspect the property belonging to ~~((said))~~ the
5 companies and may take into consideration any information or
6 knowledge obtained by ~~((it))~~ the department from ~~((such))~~ an
7 examination and inspection of such property, or of the books,
8 records, and accounts of such companies, the statements filed as
9 required by this chapter, the reports, statements, or returns of such
10 companies filed in the office of any board, office, or commission of
11 this state or any county thereof, the earnings and earning power of
12 such companies, the franchises owned or used by such companies, the
13 true and fair valuation of any and all property of such companies,
14 whether operating or nonoperating property, and whether situated
15 within or outside the state, and any other facts, evidence, or
16 information that may be obtainable bearing upon the value of the
17 operating property~~((:—PROVIDED,—That))~~. However, in no event
18 ~~((shall))~~ may any statement or report required from any company by
19 this chapter be conclusive upon the department of revenue in
20 determining the amount, character, and true and fair value of the
21 operating property of such company.

22 **Sec. 530.** RCW 84.12.330 and 2001 c 187 s 6 are each amended to
23 read as follows:

24 Upon the assessment roll ~~((shall))~~ must be placed after the name
25 of each company a general description of the operating property of
26 the company, which ~~((shall-be))~~ is considered sufficient if described
27 in the language of RCW 84.12.200~~((+12))~~ (8), as applied to the
28 company, following which ~~((shall))~~ must be entered the true and fair
29 value of the operating property as determined by the department of
30 revenue. No assessment ~~((shall))~~ may be invalidated by reason of a
31 mistake in the name of the company assessed, or the omission of the
32 name of the owner or by the entry as owner of a name other than that
33 of the true owner. When the department of revenue ~~((shall-have))~~ has
34 prepared the assessment roll and entered thereon the true and fair
35 value of the operating property of the company, as herein required,
36 ~~((it-shall))~~ the department must notify the company by mail of the
37 valuation determined by it and entered upon the roll.

1 **Sec. 531.** RCW 84.16.040 and 2001 c 187 s 9 are each amended to
2 read as follows:

3 The department of revenue (~~shall~~) must annually make an
4 assessment of the operating property of each private car company(~~+~~
5 ~~and~~). Between the first day of May and the first day of July of each
6 year (~~shall~~) the department must prepare an initial assessment roll
7 upon which (~~it shall~~) the department must enter and assess the true
8 and fair value of all the operating property of each of such
9 companies as of the first day of January of the year in which the
10 assessment is made. The department must finalize the assessment roll
11 by the twentieth day of August of each year. For the purpose of
12 determining the true and fair value of such property the department
13 of revenue may take into consideration any information or knowledge
14 obtained by (~~it~~) the department from an examination and inspection
15 of such property, or of the books, records, and accounts of such
16 companies, the statements filed as required by this chapter, the
17 reports, statements, or returns of such companies filed in the office
18 of any board, office, or commission of this state or any county
19 thereof, the earnings and earning power of such companies, the
20 franchises owned or used by such companies, the true and fair
21 valuation of any and all property of such companies, whether
22 operating property or nonoperating property, and whether situated
23 within or without the state, and any other facts, evidences, or
24 information that may be obtainable bearing upon the value of the
25 operating property(~~+~~~~PROVIDED, That~~). However, in no event
26 (~~shall~~) may any statement or report required from any company by
27 this chapter be conclusive upon the department of revenue in
28 determining the amount, character, and true and fair value of the
29 operating property of such company.

30 **Sec. 532.** RCW 84.16.090 and 2001 c 187 s 11 are each amended to
31 read as follows:

32 Upon the assessment roll (~~shall~~) must be placed after the name
33 of each company a general description of the operating property of
34 the company, which (~~shall be~~) is considered sufficient if described
35 in the language of RCW 84.16.010(3) or otherwise, following which
36 (~~shall~~) must be entered the true and fair value of the operating
37 property as determined by the department of revenue. No assessment
38 (~~shall be~~) is invalid by a mistake in the name of the company
39 assessed, by omission of the name of the owner or by the entry of a

1 name other than that of the true owner. When the department of
2 revenue (~~shall have~~) has prepared the initial assessment roll and
3 entered thereon the true and fair value of the operating property of
4 the company, as required, (~~it shall~~) the department must notify the
5 company by mail of the valuation determined by it and entered upon
6 the roll; and thereupon such valuation (~~shall~~) must become the true
7 and fair value of the operating property of the company, subject to
8 revision or correction by the department of revenue as hereinafter
9 provided; and (~~shall~~) must be the valuation upon which, after
10 equalization by the department of revenue as hereinafter provided,
11 the taxes of such company (~~shall be~~) are based and computed.

12 **Part VI**

13 **Estate tax return filing relief**

14 **Sec. 601.** RCW 83.100.050 and 2008 c 181 s 504 are each amended
15 to read as follows:

16 (1) A Washington return must be filed if(~~(a) A federal return~~
17 ~~is required to be filed; or (b) for decedents dying prior to January~~
18 ~~1, 2006, the gross estate exceeds one million five hundred thousand~~
19 ~~dollars; or (c) for decedents dying on or after January 1, 2006, the~~
20 ~~gross estate exceeds two million dollars~~) the gross estate equals or
21 exceeds the applicable exclusion amount.

22 (2) If a Washington return is required as provided in subsection
23 (1) of this section:

24 (a) A person required to file a federal return (~~shall~~) must
25 file with the department on or before the date the federal return is
26 required to be filed, including any extension of time for filing
27 under subsection (4) or (6) of this section, a Washington return for
28 the tax due under this chapter.

29 (b) If no federal return is required to be filed, a taxpayer
30 shall file with the department on or before the date a federal return
31 would have been required to be filed, including any extension of time
32 for filing under subsection (5) or (6) of this section, a Washington
33 return for the tax due under this chapter.

34 (3) A Washington return delivered to the department by United
35 States mail (~~shall be~~) is considered to have been received by the
36 department on the date of the United States postmark stamped on the
37 cover in which the return is mailed, if the postmark date is within

1 the time allowed for filing the Washington return, including
2 extensions.

3 (4) In addition to the Washington return required to be filed in
4 subsection (2) of this section, a person(~~(, if required to file a~~
5 ~~federal return, shall)) must file with the department on or before
6 the date the federal return is (~~(required to be filed a copy of the~~
7 ~~federal return along with all supporting documentation)) or would
8 have been required to be filed all supporting documentation for
9 completed Washington return schedules, and, if a federal return has
10 been filed, a copy of the federal return. If the person required to
11 file the federal return has obtained an extension of time for filing
12 the federal return, the person (~~(shall)) must file the Washington~~
13 return within the same time period and in the same manner as provided
14 for the federal return. A copy of the federal extension (~~(shall))~~
15 must be filed with the department on or before the date the
16 Washington return is due, not including any extension of time for
17 filing, or within thirty days of issuance, whichever is later.~~~~

18 (5) A person may obtain an extension of time for filing the
19 Washington return as provided by rule of the department, if the
20 person is required to file a Washington return under subsection (2)
21 of this section, but is not required to file a federal return.

22 (6) During a state of emergency declared under RCW 43.06.010(12),
23 the department, on its own motion or at the request of any taxpayer
24 affected by the emergency, may extend the time for filing a
25 Washington return under this section as the department deems proper.

26 Part VII

27 Clarifying that licensing information may not be disclosed for 28 commercial purposes

29 **Sec. 701.** RCW 19.02.115 and 2013 c 144 s 26 are each amended to
30 read as follows:

31 (1) (~~(For purposes of this section:))~~ The definitions in this
32 subsection apply throughout this section unless the context clearly
33 requires otherwise.

34 (a) "Disclose" means to make known to any person in any manner
35 licensing information(~~(+))~~.

36 (b) "Licensing information" means any information created or
37 obtained by the department in the administration of this chapter and
38 chapters 19.80 and 59.30 RCW, which information relates to any person

1 who: (i) Has applied for or has been issued a license or trade name;
2 or (ii) has been issued an assessment or delinquency fee. Licensing
3 information includes initial and renewal business license
4 applications, and business licenses((+)).

5 (c) "Person" has the same meaning as in RCW 82.04.030 and also
6 includes the state and the state's departments and institutions((+
7 and)).

8 (d) "State agency" means every Washington state office,
9 department, division, bureau, board, commission, or other state
10 agency.

11 (2) Licensing information is confidential and privileged, and
12 except as authorized by this section, neither the department nor any
13 other person may disclose any licensing information. Nothing in this
14 chapter requires any person possessing licensing information made
15 confidential and privileged by this section to delete information
16 from such information so as to permit its disclosure.

17 (3) This section does not prohibit the department of revenue, or
18 any other person receiving licensing information from the department
19 under this subsection, from:

20 (a) Disclosing licensing information in a civil or criminal
21 judicial proceeding or an administrative proceeding:

22 (i) In which the person about whom such licensing information is
23 sought and the department, another state agency, or a local
24 government are adverse parties in the proceeding; or

25 (ii) Involving a dispute arising out of the department's
26 administration of chapter 19.80 or 59.30 RCW, or this chapter if the
27 licensing information relates to a party in the proceeding;

28 (b) Disclosing, subject to such requirements and conditions as
29 the director prescribes by rules adopted pursuant to chapter 34.05
30 RCW, such licensing information regarding a license applicant or
31 license holder to such license applicant or license holder or to such
32 person or persons as that license applicant or license holder may
33 designate in a request for, or consent to, such disclosure, or to any
34 other person, at the license applicant's or license holder's request,
35 to the extent necessary to comply with a request for information or
36 assistance made by the license applicant or license holder to such
37 other person. However, licensing information not received from the
38 license applicant or holder must not be so disclosed if the director
39 determines that such disclosure would compromise any investigation or
40 litigation by any federal, state, or local government agency in

1 connection with the civil or criminal liability of the license
2 applicant, license holder, or another person, or that such disclosure
3 would identify a confidential informant, or that such disclosure is
4 contrary to any agreement entered into by the department that
5 provides for the reciprocal exchange of information with other
6 government agencies, which agreement requires confidentiality with
7 respect to such information unless such information is required to be
8 disclosed to the license applicant or license holder by the order of
9 any court;

10 (c) Publishing statistics so classified as to prevent the
11 identification of particular licensing information;

12 (d) Disclosing licensing information for official purposes only,
13 to the governor or attorney general, or to any state agency, or to
14 any committee or subcommittee of the legislature dealing with matters
15 of taxation, revenue, trade, commerce, the control of industry or the
16 professions, or licensing;

17 (e) Permitting the department's records to be audited and
18 examined by the proper state officer, his or her agents and
19 employees;

20 (f) Disclosing any licensing information to a peace officer as
21 defined in RCW 9A.04.110 or county prosecuting attorney, for official
22 purposes. The disclosure may be made only in response to a search
23 warrant, subpoena, or other court order, unless the disclosure is for
24 the purpose of criminal tax or license enforcement. A peace officer
25 or county prosecuting attorney who receives the licensing information
26 may disclose that licensing information only for use in the
27 investigation and a related court proceeding, or in the court
28 proceeding for which the licensing information originally was sought;

29 (g) Disclosing, in a manner that is not associated with other
30 licensing information, the name of a license applicant or license
31 holder, entity type, registered trade name, business address, mailing
32 address, unified business identifier number, list of licenses issued
33 to a person through the business licensing system established in this
34 chapter and their issuance and expiration dates, and the dates of
35 opening of a business. This subsection may not be construed as giving
36 authority to the department to give, sell, or provide access to any
37 list of persons for any commercial purpose;

38 (h) Disclosing licensing information that is also maintained by
39 another Washington state or local governmental agency as a public
40 record available for inspection and copying under the provisions of

1 chapter 42.56 RCW or is a document maintained by a court of record
2 and is not otherwise prohibited from disclosure;

3 (i) Disclosing any licensing information when the disclosure is
4 specifically authorized under any other section of the Revised Code
5 of Washington;

6 (j) Disclosing licensing information to the proper officer of the
7 licensing or tax department of any city, town, or county of this
8 state, for official purposes. If the licensing information does not
9 relate to a license issued by the city, town, or county requesting
10 the licensing information, disclosure may be made only if the laws of
11 the requesting city, town, or county grants substantially similar
12 privileges to the proper officers of this state; or

13 (k) Disclosing licensing information to the federal government
14 for official purposes.

15 (4) Notwithstanding anything to the contrary in this section, a
16 state agency or local government agency may disclose licensing
17 information relating to a license issued on its behalf by the
18 department pursuant to this chapter if the disclosure is authorized
19 by another statute, local law, or administrative rule.

20 (5) The department, any other state agency, or local government
21 may refuse to disclose licensing information that is otherwise
22 disclosable under subsection (3) of this section if such disclosure
23 would violate federal law or any information sharing agreement
24 between the state or local government and federal government.

25 (6) Any person acquiring knowledge of any licensing information
26 in the course of his or her employment with the department and any
27 person acquiring knowledge of any licensing information as provided
28 under subsection (3)(d), (e), (f), (j), or (k) of this section, who
29 discloses any such licensing information to another person not
30 entitled to knowledge of such licensing information under the
31 provisions of this section, is guilty of a misdemeanor. If the person
32 guilty of such violation is an officer or employee of the state, such
33 person must forfeit such office or employment and is incapable of
34 holding any public office or employment in this state for a period of
35 two years thereafter.

36 **Part VIII**

37 **Background investigations**

1 **Sec. 801.** RCW 82.01.060 and 2011 c 298 s 36 are each amended to
2 read as follows:

3 The director of revenue, hereinafter in chapter 26, Laws of 1967
4 ex. sess. referred to as the director, through the department of
5 revenue, hereinafter in chapter 26, Laws of 1967 ex. sess. referred
6 to as the department, must:

7 (1) Assess and collect all taxes and administer all programs
8 relating to taxes which are the responsibility of the tax commission
9 at the time chapter 26, Laws of 1967 ex. sess. takes effect or which
10 the legislature may hereafter make the responsibility of the director
11 or of the department;

12 (2) Make, adopt and publish such rules as he or she may deem
13 necessary or desirable to carry out the powers and duties imposed
14 upon him or her or the department by the legislature. However, the
15 director may not adopt rules after July 23, 1995, that are based
16 solely on a section of law stating a statute's intent or purpose, on
17 the enabling provisions of the statute establishing the agency, or on
18 any combination of such provisions, for statutory authority to adopt
19 any rule;

20 (3) Rules adopted by the tax commission before July 23, 1995,
21 remain in force until such time as they may be revised or rescinded
22 by the director;

23 (4) Provide by general regulations for an adequate system of
24 departmental review of the actions of the department or of its
25 officers and employees in the assessment or collection of taxes;

26 (5) Maintain a tax research section with sufficient technical,
27 clerical and other employees to conduct constant observation and
28 investigation of the effectiveness and adequacy of the revenue laws
29 of this state and of the sister states in order to assist the
30 governor, the legislature and the director in estimation of revenue,
31 analysis of tax measures, and determination of the administrative
32 feasibility of proposed tax legislation and allied problems;

33 (6) Recommend to the governor such amendments, changes in, and
34 modifications of the revenue laws as seem proper and requisite to
35 remedy injustice and irregularities in taxation, and to facilitate
36 the assessment and collection of taxes in the most economical manner;

37 (7) Provide the opportunity for any person feeling aggrieved by
38 any action taken against the person by the department in the
39 administration of chapters 19.02, 19.80, and 59.30 RCW to request a
40 review of the department's action. Such review may be conducted as a

1 brief adjudicative proceeding under RCW 34.05.485 through 34.05.494;
2 and

3 (8)(a) Establish background investigation policies applicable to
4 those current and prospective department employees and contractors
5 that are or may be authorized by the department to access federal tax
6 information. Such policies must require a criminal history record
7 check through the Washington state patrol criminal identification
8 system and through the federal bureau of investigation, at the
9 expense of the department. The record check must include a
10 fingerprint check using a complete Washington state criminal
11 identification fingerprint card, which must be forwarded by the
12 Washington state patrol to the federal bureau of investigation. The
13 department's background investigation policies must also satisfy any
14 specific background investigation standards established by the
15 internal revenue service.

16 (b) Information received by the department pursuant to this
17 subsection may be used only for the purposes of making, supporting,
18 or defending decisions regarding the appointment, hiring, or
19 retention of persons, or for complying with any requirements from the
20 internal revenue service. Further dissemination or use of the
21 information is prohibited, notwithstanding any other provision of
22 law.

23 **Part IX**

24 **Revising the date by which the department of revenue is required to**
25 **provide estimates of the amount of public forestland that is**
26 **available for timber harvesting**

27 **Sec. 901.** RCW 84.33.089 and 2004 c 177 s 6 are each amended to
28 read as follows:

29 (1) The department (~~shall~~) must estimate the number of acres of
30 public forestland that are available for timber harvesting. The
31 department (~~shall~~) must provide the estimates for each county and
32 for each taxing district within each county by (~~August 30th~~)
33 October 1st of each year except that the department may authorize a
34 county, at the county's option, to make its own estimates for public
35 forestland in that county. In estimating the number of acres, the
36 department (~~shall~~) must use the best available information to
37 include public land comparable to private land that qualifies as
38 forestland for assessment purposes and exclude other public lands.

1 The department is not required to update the estimates unless
2 improved information becomes available. The department of natural
3 resources (~~shall~~) must assist the department with these
4 determinations by providing any data and information in the
5 possession of the department of natural resources on public
6 forestlands, broken out by county and legal description, including a
7 detailed map of each county showing the location of the described
8 lands. The data and information (~~shall~~) must be provided to the
9 department by July 15th of each year. In addition, the department may
10 contract with other parties to provide data or assistance necessary
11 to implement this section.

12 (2) To accommodate the phase-in of the county forest excise tax
13 on the harvest of timber from public lands as provided in RCW
14 84.33.051, the department (~~shall~~) must adjust its actual estimates
15 of the number of acres of public forestland that are available for
16 timber harvesting. The department (~~shall~~) must reduce its estimates
17 for the following years by the following amounts:

18 (a) For calendar year 2005, 70 percent;

19 (b) For calendar year 2006, 62.5 percent;

20 (c) For calendar year 2007, 55 percent;

21 (d) For calendar year 2008, 47.5 percent;

22 (e) For calendar year 2009, 40 percent;

23 (f) For calendar year 2010, 32.5 percent;

24 (g) For calendar year 2011, 22.5 percent;

25 (h) For calendar year 2012, 15 percent;

26 (i) For calendar year 2013, 7.5 percent; and

27 (j) For calendar year 2014 and thereafter, the department
28 (~~shall~~) may not reduce its estimates of the number of acres of
29 public forestland that are available for timber harvesting.

30

Part X

31

Electronic communication of confidential property tax information

32 NEW SECTION. **Sec. 1001.** A new section is added to chapter 84.08
33 RCW to read as follows:

34 (1) The department may provide electronically any assessment,
35 notice, or other information that is subject to the confidentiality
36 provisions of RCW 84.08.210 or 84.40.340, to any person authorized to
37 receive the information.

1 (2) The department must use methods reasonably designed to
2 protect information provided electronically as authorized in
3 subsection (1) of this section from unauthorized disclosure. However,
4 the provisions of this subsection (2) may be waived by a taxpayer.
5 The waiver must be in writing and may be provided to the department
6 electronically. A waiver continues until revoked in writing by the
7 taxpayer. Such revocation may be provided to the department
8 electronically in a manner provided or approved by the department.

9
10

Part XI
Miscellaneous

11 NEW SECTION. **Sec. 1101.** RCW 82.32.805 and 82.32.808 do not
12 apply to any provisions of this act.

13 NEW SECTION. **Sec. 1102.** (1) Except as otherwise provided in
14 this section, part I of this act takes effect January 1, 2018.

15 (2) Section 102 of this act takes effect April 1, 2018.

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