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**SENATE BILL 5608**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Ericksen, Fortunato, Wilson, L., Bailey, Becker, Brown, Zeiger, Short, Honeyford, Padden, and Rivers

AN ACT Relating to lowering the ceiling of the business and occupation manufacturing tax rate to 0.2904 percent; amending RCW 82.04.240, 82.04.240, 82.04.280, and 82.32.790; creating new sections; providing a contingent effective date; and providing a contingent expiration date.

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

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in this act. The change in tax base created by this act is intended to be permanent. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to create and retain jobs, improve industry competitiveness, and reduce structural inefficiencies, as indicated in RCW 82.32.808(2) (b) through (d).

(3) The legislature finds that manufacturing is a vital part of Washington's economy, providing family wage jobs throughout the state, accompanied by a multiplier effect that often makes these employers hubs of their local communities. The legislature also finds that manufacturing jobs in Washington have been in decline, losing over fifty thousand jobs since the turn of the century. Over forty-five thousand jobs of the net jobs lost have occurred in nonaerospace manufacturing, which is generally subject to a tax rate forty percent higher than the aerospace industry in Washington. Therefore, it is the legislature's specific public policy to enhance taxpayer equity by lowering the business and occupation rate ceiling to 0.2904 for all manufacturers in the state in order to increase the sustainability of manufacturing in Washington as well as increase manufacturing's competitiveness around the world, thereby enabling manufacturing to continue to be a critical and hopefully growing source of family wage jobs throughout the state.

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

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

(a) 0.484 percent through December 31, 2019;

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

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

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

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

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

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

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

(a) 0.484 percent through December 31, 2019;

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

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

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

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

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

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

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

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

**Sec.**  RCW 82.04.280 and 2017 c 323 s 508 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of: (a) Printing materials other than newspapers, and of publishing periodicals or magazines; (b) building, repairing or improving any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (c) extracting for hire ((~~or processing for hire~~)), except persons taxable as extractors for hire ((~~or processors for hire~~)) under another section of this chapter; (d) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (e) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW; (f) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the federal communications commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (g) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.484 percent.

(2) Upon every person engaging within this state in the business of processing for hire, except persons taxable as processors for hire under another section of this chapter; as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of:

(a) 0.484 percent through December 31, 2019;

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

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

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

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

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

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

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

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

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

(1)(a) Section 3, chapter . . ., Laws of 2019 (section 3 of this act), sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, 2024.

(b) For the purposes of this section:

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  This act is exempt from the automatic expiration date provisions of RCW 82.32.805(1)(a).

NEW SECTION. **Sec.**  Section 2 of this act expires on the date section 3 of this act takes effect.

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