CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 5800**

Chapter 56, Laws of 2022

67th Legislature

2022 Regular Session

TAXES AND REVENUE—VARIOUS PROVISIONS

EFFECTIVE DATE: June 9, 2022

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| Passed by the Senate February 15, 2022  Yeas 49 Nays 0  DENNY HECK  **President of the Senate**  Passed by the House March 2, 2022  Yeas 95 Nays 0  LAURIE JINKINS  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5800** as passed by the Senate and the House of Representatives on the dates hereon set forth.  SARAH BANNISTER  Secretary |
| Approved March 11, 2022 10:52 AM | March 11, 2022 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**ENGROSSED SENATE BILL 5800**

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Passed Legislature - 2022 Regular Session

**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Schoesler, Padden, and Rolfes

AN ACT Relating to modifying tax and revenue laws in a manner that is estimated to not affect state or local tax collections by easing compliance burdens for taxpayers, clarifying ambiguities, making technical corrections, and providing administrative efficiencies; amending RCW 14.08.122, 19.02.115, 82.02.210, 82.04.299, 82.08.025661, 82.08.9997, 82.12.02685, 82.12.9997, 82.32.330, 82.32.534, 82.32.790, 82.62.030, and 84.52.065; and creating a new section.

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

**Sec.**  RCW 14.08.122 and 1999 c 302 s 1 are each amended to read as follows:

An airport operator may adopt all regulations necessary for rental and use of airport facilities and for the expeditious collection of airport charges. The regulations may also establish procedures for the enforcement of these regulations by the airport operator. The regulations shall include the following:

(1) Procedures authorizing airport personnel to take reasonable measures including, but not limited to, the use of chains, ropes, and locks to secure aircraft within the airport facility so that the aircraft are in the possession and control of the airport operator and cannot be removed from the airport. These procedures may be used if an owner hangaring or parking an aircraft at the airport fails, after being notified that charges are owing and of the owner's right to contest that such charges are owing, to pay the airport charges owed or to commence legal proceedings. Notification shall be by registered mail to the owner at his or her last known address. In the case of an aircraft where an owner's address cannot be determined or obtained after reasonable effort, the airport operator need not give such notice prior to securing the aircraft. At the time of securing the aircraft, an authorized airport employee shall attach to the aircraft a readily visible notice and shall make a reasonable attempt to send a copy of the notice to the owner at his or her last known address by registered mail, return receipt requested, and an additional copy of the notice by first-class mail. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached;

(b) A reasonable description of the aircraft;

(c) The identity of the authorized employee;

(d) The amount of airport charges owing;

(e) A statement that if the account is not paid in full within ninety days from the time the notice was attached the aircraft may be sold at public auction to satisfy the airport charges;

(f) A statement of the owner's right to commence legal proceedings to contest the charges owing and to have the aircraft released upon posting of an adequate cash bond or other security; and

(g) The address and telephone number where additional information may be obtained concerning the release of the aircraft.

(2) Procedures authorizing airport personnel at their discretion to move aircraft to an area within the airport operator's control or for storage with private persons under the airport operator's control as bailees of the airport facility. Costs of any such procedure shall be paid by the aircraft's owner.

(3) If an aircraft is secured under subsection (1) of this section or moved under conditions authorized by subsection (2) of this section the owner who is obligated for hangaring or parking or other airport charges may regain possession of the aircraft by:

(a) Making arrangements satisfactory with the airport operator for the immediate removal of the aircraft from the airport's hangar, or making arrangements for authorized parking; and

(b) By making payment to the airport operator of all airport charges or by posting with the airport operator a sufficient cash bond or other security acceptable to such operator, to be held in trust by the airport operator pending written agreement of the parties with respect to payment by the aircraft owner of the amount owing, or pending resolution of charges in a civil action in a court of competent jurisdiction. Upon written agreement or judicial resolution, the trust shall terminate and the airport operator shall receive so much of the bond or other security as is necessary to satisfy the agreement, or any judgment, costs, and interest as may be awarded to the airport operator. The balance shall be refunded immediately to the owner at the owner's last known address by registered mail, return receipt requested. The airport operator shall send to the owner by first-class mail a notice that the balance of funds was forwarded to him or her by registered mail, return receipt requested.

(4) If an aircraft parked or hangared at an airport is abandoned, the airport operator may authorize the public sale of the aircraft by authorized personnel to the highest and best bidder for cash as follows:

(a) If an aircraft has been secured by the airport operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ninety days after notifying or attempting to notify the owner under subsection (1) of this section, or in all other cases, for ninety days after the airport operator secures the aircraft, the aircraft shall be conclusively presumed to have been abandoned by the owner;

(b) Before the aircraft is sold, the owner of the aircraft shall be given at least twenty days' notice of sale by registered mail, return receipt requested, if the name and address of the owner are known, and the notice of sale shall be published at least once, more than ten but less than twenty days before the sale, in a newspaper of general circulation in the county in which the airport is located. The notice shall include the name of the aircraft, if any, its aircraft identification number, the last known owner and address, the time and place of sale, the amount of airport charges that will be owing at the time of sale, a reasonable description of the aircraft to be sold and a statement that the airport operator may bid all or part of its airport charges at the sale and may become a purchaser at the sale;

(c) Before the aircraft is sold, any person seeking to redeem an impounded aircraft under this section may commence a lawsuit in the superior court of the county in which the aircraft was impounded, to contest the validity of the impoundment or the amount of airport charges owing. Such lawsuit must be commenced within ten days of the date the notification was provided under subsection (1) of this section, or the right to a hearing is waived and the owner is liable for any airport charges owing the airport operator. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs;

(d) The proceeds of a sale under this section shall first be applied to payment of airport charges owed. The balance, if any, shall be deposited with the department of revenue to be held in trust for the owner or owners and lienholders for a period of one year from the date of sale. If more than one owner appears on the aircraft title, and/or if any liens appear on the title, the department must, if a claim is made, interplead the balance into a court of competent jurisdiction for distribution. The department may release the balance to the legal owner provided that the claim is made within one year of sale and only one legal owner and no lienholders appear on the title. If no valid claim is made within one year of the date of sale, the excess funds from the sale shall be deposited in the ((~~aircraft search and rescue, safety, and education account created in RCW 47.68.236~~)) aeronautics account created under RCW 82.42.090. If the sale is for a sum less than the applicable airport charges, the airport operator is entitled to assert a claim against the aircraft owner or owners for the deficiency;

(e) In the event that no one purchases the aircraft at a sale, or that the aircraft is not removed from the premises or other arrangements are not made within ten days of the sale, title to the aircraft shall revert to the airport operator.

(5) The regulations authorized under this section shall be enforceable only if:

(a) The airport operator has had its tariff and/or regulations, including any and all regulations authorizing the impoundment of an aircraft that is the subject of delinquent airport charges, conspicuously posted at the airport manager's office at all times((~~.[;]~~));

(b) All impounding remedies available to the airport operator are included in any written contract for airport charges between an airport operator and an aircraft owner; and

(c) All rules and regulations authorized under this section are adopted either pursuant to chapter 34.05 RCW, or by resolution of the appropriate legislative authority, as applicable.

**Sec.**  RCW 19.02.115 and 2017 c 323 s 701 are each amended to read as follows:

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

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

(b) "Licensing information" means any information created or obtained by the department in the administration of this chapter and chapters 19.80 and 59.30 RCW, which information relates to any person who: (i) Has applied for or has been issued a license or trade name; or (ii) has been issued an assessment or delinquency fee. Licensing information includes initial and renewal business license applications, and business licenses.

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

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

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

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

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

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

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

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such licensing information regarding a license applicant or license holder to such license applicant or license holder or to such person or persons as that license applicant or license holder may designate in a request for, or consent to, such disclosure, or to any other person, at the license applicant's or license holder's request, to the extent necessary to comply with a request for information or assistance made by the license applicant or license holder to such other person. However, licensing information not received from the license applicant or holder must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the license applicant, license holder, or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies, which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the license applicant or license holder by the order of any court;

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

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

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

(f) Disclosing any licensing information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only ((~~in response to a search warrant, subpoena, or other court order, unless the disclosure is~~)) for the purpose of ((~~criminal tax or license~~)) review, investigation, or enforcement activities related to a license or license application. A peace officer or county prosecuting attorney who receives the licensing information may disclose that licensing information only ((~~for use in the investigation and a related court proceeding, or in the court proceeding for which the licensing information originally was sought~~)) in conformance with restrictions found in this section;

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

(h) Disclosing licensing information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

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

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

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

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

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

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

**Sec.**  RCW 82.02.210 and 2007 c 6 s 105 are each amended to read as follows:

(1) It is the intent of the legislature that Washington join as a member state in the streamlined sales and use tax agreement referred to in chapter 82.58 RCW. The agreement provides for a simpler and more uniform sales and use tax structure among states that have sales and use taxes. The intent of the legislature is to bring Washington's sales and use tax system into compliance with the agreement so that Washington may join as a member state and have a voice in the development and administration of the system, and to substantially reduce the burden of tax compliance on sellers.

(2) Chapter 168, Laws of 2003 does not include changes to Washington law that may be required in the future and that are not fully developed under the agreement. These include, but are not limited to, changes relating to online registration, reporting, and remitting of payments by businesses for sales and use tax purposes, monetary allowances for sellers and their agents, sourcing, and amnesty for businesses registering under the agreement.

(3) It is the intent of the legislature that the provisions of this title relating to the administration and collection of state and local sales and use taxes be interpreted and applied consistently with the agreement.

(4) The department of revenue shall report to the fiscal committees of the legislature ((~~on January 1, 2004, and each January 1st thereafter, on the development of the agreement and shall recommend changes to the sales and use tax structure and propose legislation as may be necessary to keep Washington in compliance with the agreement~~)) by January 1st of the year immediately following any year during which the streamlined sales and use tax agreement is amended, if legislation is required to keep Washington in compliance with the agreement.

**Sec.**  RCW 82.04.299 and 2020 c 2 s 4 are each amended to read as follows:

(1)(a) Beginning with business activities occurring on or after April 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses. The surcharge is equal to the gross income of the business subject to the tax under RCW 82.04.290(2), multiplied by the rate of 1.22 percent.

(b) Except as provided in (e) of this subsection (1), in no case will the combined surcharge imposed under this subsection (1) paid by all members of an affiliated group be more than nine million dollars annually.

(c) For persons subject to the surcharge imposed under this subsection (1) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

(d) The surcharge imposed under this subsection (1) must be reported and paid on a quarterly basis in a manner as required by the department. Returns and amounts payable under this subsection (1) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

(e)(i) To aid in the effective administration of the surcharge in this subsection (1), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that one or more members of an affiliated group, with intent to evade the surcharge under this subsection (1), failed to fully comply with this subsection (1)(e), the department must assess against that person, or those persons collectively, a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or persons failed to fully comply with this subsection (1)(e). The penalty under this subsection (1)(e) is in lieu of and not in addition to the evasion penalty under RCW 82.32.090(7).

(f) For the purposes of this subsection (1) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including ((~~modifications~~)): Modifications to computer software or computer hardware((~~,~~)); cloud computing services((~~,~~)); or operating ((~~an online~~)) as a marketplace facilitator as defined by RCW 82.08.0531, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business. A person that is primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020, shall not be considered a select advanced computing business. For purposes of this subsection (1)(f)(vi), "primarily" is determined based on gross income of the business.

(2) The workforce education investment surcharge under this section does not apply to any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(3) Revenues from the surcharge under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

(4) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharge imposed in this section.

**Sec.**  RCW 82.08.025661 and 2016 c 191 s 2 are each amended to read as follows:

(1) Subject to the requirements of this section, the tax levied by RCW 82.08.020 does not apply to:

(a) Charges for labor and services rendered in respect to the constructing of new buildings, made to: (i) An eligible maintenance repair operator engaged in the maintenance of airplanes; or (ii) a port district, political subdivision, or municipal corporation, if the new building is to be leased to an eligible maintenance repair operator engaged in the maintenance of airplanes;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2)(a) The exemption in this section is in the form of a remittance. A buyer claiming an exemption from the tax in the form of a remittance under this section must pay all applicable state and local sales taxes imposed under RCW 82.08.020 and chapter 82.14 RCW on all purchases qualifying for the exemption.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer may on a quarterly basis submit an application, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

(c) The department must on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(d) A person may request a remittance for state sales and use taxes after the aircraft maintenance and repair station has been operationally complete for four years, but not sooner than December 1, 2021. However, the department may not remit the state portion of sales and use taxes if the person did not report at least one hundred average employment positions to the employment security department for ((~~September~~)) October 1, 2020, through September ((~~1~~)) 30, 2021, with an average annualized wage of eighty thousand dollars. A person must provide the department with the unemployment insurance number provided to the employment security department for the establishment.

(e) A person may request a remittance for local sales and use taxes on or after July 1, 2016.

(3) In order to qualify under this section before starting construction, the port district, political subdivision, or municipal corporation must have entered into an agreement with an eligible maintenance repair operator to build such a facility. A person claiming the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must file a complete annual report with the department under RCW 82.32.534.

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

(a) "Eligible maintenance repair operator" means a person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and located in an international airport owned by a county with a population greater than one million five hundred thousand.

(b) "Operationally complete" means constructed to the point of being functionally capable of hosting the repair and maintenance of airplanes.

(5) This section expires January 1, 2027.

**Sec.**  RCW 82.08.9997 and 2015 c 207 s 4 are each amended to read as follows:

The taxes imposed by this chapter do not apply to the retail sale of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under RCW 43.06.490. "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as defined in RCW 69.50.101. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this section.

**Sec.**  RCW 82.12.02685 and 2021 c 250 s 2 are each amended to read as follows:

(1) The provisions of this chapter shall not apply in respect to the use of tangible personal property that becomes an ingredient or component of buildings or other structures, in which at least 50 percent of housing units in the development are used as farmworker housing, during the course of constructing, repairing, decorating, or improving the buildings or other structures by any person.

(2) The exemption provided in this section for farmworker housing provided on a year-round basis only applies if that housing is built to the current building code for single-family or multifamily dwellings according to the state building code, chapter 19.27 RCW.

(3) Any farmworker housing built under this section shall be used according to this section for at least five consecutive years from the date the housing is approved for occupancy, or the full amount of a tax otherwise due shall be immediately due and payable together with interest, but not penalties, from the date the housing is approved for occupancy until the date of payment. If at any time farmworker housing ceases to be used in the manner specified in subsection (2) of this section, the full amount of tax otherwise due shall be immediately due and payable with interest, but not penalties, from the date the housing ceases to be used as farmworker housing until the date of payment.

(4) The exemption provided in this section shall not apply to housing built for the occupancy of an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business.

(5) If during any agricultural season in the qualifying five years under subsection (3) of this section the housing is occupied by a farmworker who does not have an H-2A visa, then the housing will be considered not to be exclusively built for workers on an H-2A visa.

(6) The definitions in RCW 82.08.02745(6) apply to this section.

(7) This section expires January 1, 2032.

**Sec.**  RCW 82.12.9997 and 2015 c 207 s 5 are each amended to read as follows:

The taxes imposed by this chapter do not apply to the use of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under RCW 43.06.490. "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as defined in RCW 69.50.101. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this section.

**Sec.**  RCW 82.32.330 and 2021 c 145 s 18 are each amended to read as follows:

(1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under this title or chapter 83.100 RCW is a party in the proceeding;

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding; or

(iii) Brought by the department under RCW 18.27.040 or 19.28.071;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department is not required to disclose any information under this subsection if a taxpayer has entered a deferred payment arrangement with the department for the payment of a warrant that has not been filed and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(e) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(f) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

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

(h) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(i) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasury, and the United States department of transportation, or any authorized representative of these federal agencies, for official purposes;

(j) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(k) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, reseller permit numbers and the expiration date and status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(l) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is maintained by a court of record and is not otherwise prohibited from disclosure;

(m) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(n) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property;

(o) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(p) Disclosing real estate excise tax affidavit forms filed under RCW 82.45.150 in the possession of the department, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

(q) Disclosing to local taxing jurisdictions the identity of sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for which relief is granted;

(r) Disclosing such return or tax information to the court in respect to the department's application for a subpoena under RCW 82.32.117;

(s) Disclosing to a person against whom the department has asserted liability under RCW 83.100.120 return or tax information pertaining to that person's liability for tax under chapter 83.100 RCW;

(t) Disclosing such return or tax information to the streamlined sales tax governing board, member states of the streamlined sales tax governing board, or authorized representatives of such board or states, for the limited purposes of:

(i) Conducting on behalf of member states sales and use tax audits of taxpayers; or

(ii) Auditing certified service providers or certified automated systems providers;

(u) Disclosing any such return or tax information when the disclosure is specifically authorized under any other section of the Revised Code of Washington;

(v) Disclosing to an individual to whom the department has issued an assessment under RCW 82.32.145 for unpaid trust fund taxes of a defunct or insolvent entity, return or tax information of that entity pertaining to those unpaid trust fund taxes; ((~~or~~))

(w) Disclosing any such return or tax information pursuant to a federal grand jury subpoena or subpoena issued by a United States attorney, only to be used in the criminal investigation and related court proceedings, or in the court proceeding for which the return or tax information originally was sought; or

(x) Disclosing any return or tax information to an individual when the return or tax information is related directly to that person's individual liability, as part of a marital community, for amounts due under a warrant issued under the authority of RCW 59.30.090 or 82.32.210.

(4)(a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued under RCW 82.32.117 does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena under RCW 82.32.117 may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3) (e), (f), (g), (h), (i), (m), (v), and (w) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter.

**Sec.**  RCW 82.32.534 and 2021 c 145 s 19 are each amended to read as follows:

(1)(a)(i) Beginning in calendar year 2018, every person claiming a tax preference that requires an annual tax performance report under this section must file a complete annual report with the department. The report is due by May 31st of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a report under this section.

(ii) If the tax preference is a deferral of tax, the first annual tax performance report must be filed by May 31st of the calendar year following the calendar year in which the investment project is certified by the department as operationally complete((~~, and an~~)). An annual tax performance report must also be filed by May 31st of each ((~~of the seven~~)) succeeding calendar year((~~s~~)) through the calendar year in which the deferred taxes are fully repaid or are immediately due and payable because the recipient of the deferral is no longer eligible for the deferral.

(iii) The department may extend the due date for timely filing of annual reports under this section as provided in RCW 82.32.590.

(b) The report must include information detailing employment and wages for employment positions in Washington for the year that the tax preference was claimed. However, persons engaged in manufacturing commercial airplanes or components of such airplanes may report employment and wage information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed. In lieu of reporting employment and wage data required under this subsection, taxpayers may instead opt to allow the employment security department to release the same employment and wage information from unemployment insurance records to the department and the joint legislative audit and review committee. This option is intended to reduce the reporting burden for taxpayers, and each taxpayer electing to use this option must affirm that election in accordance with procedures approved by the employment security department.

(c) Persons receiving the benefit of the tax preference provided by RCW 82.16.0421 or claiming any of the tax preferences provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual report the quantity of product produced in this state during the time period covered by the report.

(d) If a person filing a report under this section did not file a report with the department in the previous calendar year, the report filed under this section must also include employment and wage information for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(2)(a) As part of the annual report, the department and the joint legislative audit and review committee may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(b) The report must include the amount of the tax preference claimed for the calendar year covered by the report. For a person that claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the report must include the amount of tax exempted under those sections in the prior calendar year for each general area or category of research and development for which exempt machinery and equipment and labor and services were acquired in the prior calendar year.

(3) Other than information requested under subsection (2)(a) of this section, the information contained in an annual report filed under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(4)(a) Except as otherwise provided by law, if a person claims a tax preference that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.590, the department must declare:

(i) Thirty-five percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable;

(ii) An additional fifteen percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable if the person has previously been assessed under this subsection (4) for failure to submit a report under this section for the same tax preference; and

(iii) If the tax preference is a deferral of tax, the amount immediately due under this subsection is ((~~twelve and one-half percent of~~)) the deferred tax divided by the number of years in the repayment period. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(b) The department may not assess interest or penalties on amounts due under this subsection.

(5) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December 31st.

(6) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a report under this section.

**Sec.**  RCW 82.32.790 and 2019 c 449 s 2 are each amended to read as follows:

(1)(a) ((~~Section 2, chapter 449, Laws of 2019, sections~~)) 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.

**Sec.**  RCW 82.62.030 and 2007 c 485 s 3 are each amended to read as follows:

(1)(a) A person shall be allowed a credit against the tax due under chapter 82.04 RCW as provided in this section. The credit shall equal: (i) Four thousand dollars for each qualified employment position with wages and benefits greater than forty thousand dollars annually that is directly created in an eligible business project and (ii) two thousand dollars for each qualified employment position with wages and benefits less than or equal to forty thousand dollars annually that is directly created in an eligible business project.

(b) For purposes of calculating the amount of credit under (a) of this subsection with respect to qualified employment positions as defined in RCW 82.62.010(8)(a)(ii):

(i) In determining the number of qualified employment positions, a fractional amount is rounded down to the nearest whole number; and

(ii) Wages and benefits for each qualified employment position shall be equal to the quotient derived by dividing: (A) The sum of the wages and benefits earned for the four consecutive full calendar quarter period for which a credit under this chapter is earned by all of the person's new seasonal employees hired during that period; by (B) the number of qualified employment positions plus any fractional amount subject to rounding as provided under (b)(i) of this subsection. For purposes of this chapter, a credit is earned for the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled.

(2) The department shall keep a running total of all credits allowed under this chapter during each fiscal year. The department shall not allow any credits which would cause the total to exceed seven million five hundred thousand dollars in any fiscal year. If all or part of an application for credit is disallowed under this subsection, the disallowed portion shall be carried over to the next fiscal year. However, the carryover into the next fiscal year is only permitted to the extent that the cap for the next fiscal year is not exceeded.

(3) No recipient may use the tax credits to decertify a union or to displace existing jobs in any community in the state.

(4)(a) The credit may be used against any tax due under chapter 82.04 RCW, and, except as otherwise provided under this subsection (4), may be carried over until used.

(b) Credits earned expire the first day of January of the year that is six years from the later of the year that:

(i) The department is notified by the recipient, or a representative of the recipient, that the recipient has ceased engaging in business within this state as those terms are defined in chapter 82.04 RCW;

(ii) The department closes the recipient's tax reporting account; or

(iii) The recipient last claimed the credit on a return filed with the department.

(5) No refunds may be granted for unused credits under this section.

**Sec.**  RCW 84.52.065 and 2019 c 411 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this section, subject to the limitations in RCW 84.55.010, in each year the state must levy for collection in the following year for the support of common schools of the state a tax of three dollars and sixty cents per thousand dollars of assessed value upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(2)(a) In addition to the tax authorized under subsection (1) of this section, the state must levy an additional property tax for the support of common schools of the state.

(i) For taxes levied for collection in calendar years 2018 through 2021, the rate of tax is the rate necessary to bring the aggregate rate for state property tax levies levied under this subsection and subsection (1) of this section to a combined rate of two dollars and forty cents per thousand dollars of assessed value in calendar year 2019 and two dollars and seventy cents per thousand dollars of assessed value in calendar years 2018, 2020, and 2021. The state property tax levy rates provided in this subsection (2)(a)(i) are based upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(ii) For taxes levied for collection in calendar year 2022 and thereafter, the tax authorized under this subsection (2) is subject to the limitations of chapter 84.55 RCW.

(b)(i) Except as otherwise provided in this subsection, all taxes collected under this subsection (2) must be deposited into the state general fund.

(ii) For fiscal year 2019, taxes collected under this subsection (2) must be deposited into the education legacy trust account for the support of common schools.

(3) For taxes levied for collection in calendar years 2019 through 2021, the state property taxes levied under subsections (1) and (2) of this section are not subject to the limitations in chapter 84.55 RCW.

(4)(a) For taxes levied for collection in calendar year 2022 and thereafter, the aggregate rate limit for state property taxes levied under subsections (1) and (2) of this section is three dollars and sixty cents per thousand dollars of assessed value upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(b) If the aggregate rate of state property taxes levied under subsections (1) and (2) of this section for collection in any calendar year after 2021 exceeds $3.60 per $1,000 of assessed value, each rate must be reduced on a pro rata basis until the aggregate rate no longer exceeds $3.60 per $1,000 of assessed value.

(5) For property taxes levied for collection in calendar years 2019 through 2021, the rate of tax levied under subsection (1) of this section is the actual rate that was levied for collection in calendar year 2018 under subsection (1) of this section.

(6) As used in this section, "the support of common schools" includes the payment of the principal and interest on bonds issued for capital construction projects for the common schools.

NEW SECTION. **Sec.**  Section 4 of this act applies retroactively to January 1, 2020.

**--- END ---**

Passed by the Senate February 15, 2022.

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