

HOUSE BILL 1496

State of Washington

67th Legislature

2021 Regular Session

By Representatives Senn, Walen, Davis, J. Johnson, Ramel, Bergquist, Macri, Gregerson, Simmons, Sells, Peterson, Bateman, Berry, Lekanoff, Frame, Fitzgibbon, Duerr, Hackney, Slatter, Kirby, Thai, Chopp, Valdez, Riccelli, Pollet, Ormsby, Harris-Talley, and Stonier

Read first time 02/05/21. Referred to Committee on Finance.

1 AN ACT Relating to creating a more progressive tax system in
2 Washington by enacting an excise tax on sales and extraordinary
3 profits of high valued assets; adding a new section to chapter 82.04
4 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter
5 to Title 82 RCW; creating new sections; and prescribing penalties.

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

7 **Part I**
8 **Intent**

9 NEW SECTION. **Sec. 101.** (1) The legislature recognizes
10 Washington's tax system is the most regressive in the nation because
11 it asks those making the least to pay the most as a percentage of
12 their income. This makes household costs, like child care and food,
13 even more burdensome. Before the COVID-19 pandemic, middle-income
14 families in Washington paid two to four times in taxes, as a
15 percentage of household income, as compared to top earners in the
16 state. Low-income Washingtonians paid six times more than did our
17 wealthiest residents.

18 Since March, this has been exacerbated as the world's wealthiest
19 have seen their wealth increase dramatically while families struggled
20 to pay for essentials like food and rent. In fact, billionaires have

1 seen their wealth increase 57 percent on average throughout the
2 pandemic. At the same time, 100,000 people in Washington have signed
3 up for food and cash assistance, and temporary assistance for needy
4 families has increased significantly, including doubling in some
5 counties east of the Cascade mountains.

6 The legislature recognizes that the impact of COVID-19 to
7 businesses has been devastating. The hospitality and leisure industry
8 alone has lost a net of 100,000 jobs since spring. Nine months into
9 the pandemic, employment declines are still 30 percent greater than
10 the deepest point in the great recession a decade ago, and 7 percent
11 of the state's workforce is collecting unemployment.

12 The child care industry, possibly the most critical
13 infrastructure for our economic recovery, is in dire crisis, and it
14 is costing Washington families and businesses. The lack of child care
15 access in Washington costs businesses \$2,080,000,000 a year, and
16 working parents forgo \$14,000,000,000 a year in lost wages.

17 To address the economic and child care crises in a fair and
18 equitable way, we must invest in our child care system to sustain
19 diverse child care businesses, ensure families can access affordable
20 child care, and spur economic recovery.

21 The legislature finds that a tax system that is fair, balanced,
22 and works for everyone is essential to help all Washingtonians grow
23 and thrive. Our tax system must strengthen the middle-class economy,
24 help low-income and middle-income families, and ask the wealthiest
25 among us, who are benefiting the most in our economy and current tax
26 structure, to contribute their fair share. We must ensure our tax
27 structure is funding critical needs like behavioral health, housing
28 for homeless and working families, feeding seniors, providing school
29 counselors and nurses, or supporting innovation.

30 (2) The excise tax on capital gains is a tax on the one-time,
31 voluntary sale or transfer of a capital asset, not a tax on ownership
32 of the asset itself. This excise tax is paid only by those Washington
33 residents who engage in such voluntary sales or transfers, and is
34 measured by the realization of significant gain on the transaction.
35 In order to protect against further regressive impacts of the tax
36 system, encourage the everyday investments that Washingtonians of all
37 income levels strive for, and support our economy, this excise tax
38 will not apply to capital gains realized by certain sales and
39 transfers. The legislature specifically finds and declares that the
40 excise tax on the voluntary sale or transfer of capital assets is

1 necessary for the support of state government and its existing
2 institutions.

3 **Part II**
4 **Capital Gains Tax**

5 NEW SECTION. **Sec. 201.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Adjusted capital gain" means federal net long-term capital
9 gain:

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

14 (b) Plus any amount of long-term capital loss from a sale or
15 exchange that is not allocated to Washington under section 207 of
16 this act, to the extent such loss was included in calculating federal
17 net long-term capital gain;

18 (c) Plus any amount of loss carryforward from a sale or exchange
19 that is not allocated to Washington under section 207 of this act, to
20 the extent such loss was included in calculating federal net long-
21 term capital gain;

22 (d) Less any amount of long-term capital gain from a sale or
23 exchange that is not allocated to Washington under section 207 of
24 this act, to the extent such gain was included in calculating federal
25 net long-term capital gain; and

26 (e) Less any amount of long-term capital gain from a sale or
27 exchange that is exempt from the tax imposed in this chapter, to the
28 extent such gain was included in calculating federal net long-term
29 capital gain.

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

35 (3) "Federal net long-term capital gain" means the net long-term
36 capital gain reportable for federal income tax purposes determined as
37 if Title 26 U.S.C. Secs. 1400Z-1 and 1400Z-2 of the internal revenue
38 code did not exist.

1 (4) "Individual" means a natural person.

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

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

8 (7) "Long-term capital gain" means gain from the sale or exchange
9 of a long-term capital asset.

10 (8) "Long-term capital loss" means a loss from the sale or
11 exchange of a long-term capital asset.

12 (9) "Real property" has the same meaning as in RCW 82.45.032.

13 (10)(a) "Resident" means an individual:

14 (i) Who is domiciled in this state during the taxable year,
15 unless the individual (A) maintained no permanent place of abode in
16 this state during the entire taxable year, (B) maintained a permanent
17 place of abode outside of this state during the entire taxable year,
18 and (C) spent in the aggregate not more than 30 days of the taxable
19 year in this state; or

20 (ii) Who is not domiciled in this state during the taxable year,
21 but maintained a place of abode and was physically present in this
22 state for more than 183 days during the taxable year.

23 (b) For purposes of this subsection, "day" includes any portion
24 of a day, except that a continuous period of 24 hours or less may not
25 constitute more than one day.

26 (c) An individual who is a resident under (a) of this subsection
27 is a resident for that portion of a taxable year in which the
28 individual was domiciled in this state or maintained a place of abode
29 in this state.

30 (11) "Taxable year" means the taxpayer's taxable year as
31 determined under the internal revenue code.

32 (12) "Taxpayer" means an individual subject to tax under this
33 chapter.

34 (13) "Washington capital gains" means an individual's adjusted
35 capital gains, less:

36 (a) \$200,000; or

37 (b) \$400,000 for individuals filing joint returns under this
38 chapter.

1 NEW SECTION. **Sec. 202.** (1) Beginning January 1, 2022, a tax is
2 imposed on all individuals for the privilege of selling or exchanging
3 long-term capital assets as follows:

4 (a) The tax equals seven percent multiplied by the individual's
5 Washington capital gains on real property; and

6 (b) The tax equals 9.9 percent multiplied by the individual's
7 Washington capital gains on all other long-term capital assets.

8 (2) If an individual's Washington capital gains equal an amount
9 that is less than zero for a taxable year, no tax is due under this
10 section and no such amount is allowed as a carryover for use in the
11 calculation of that individual's adjusted capital gain, as defined in
12 section 201(1) of this act, for any taxable year. To the extent that
13 a loss carryforward is included in the calculation of an individual's
14 federal net long-term capital gain, as defined in section 201(3) of
15 this act, and that loss carryforward is directly attributable to
16 losses from sales or exchanges allocated to this state under section
17 207 of this act, the loss carryforward is included in the calculation
18 of that individual's adjusted capital gain. An individual may not
19 include any losses carried back for federal income tax purposes in
20 the calculation of that individual's adjusted capital gain for any
21 taxable year.

22 (3)(a) The tax imposed in this section applies to the sale or
23 exchange of long-term capital assets owned by the taxpayer, whether
24 the taxpayer was the legal or a beneficial owner of such assets at
25 the time of the sale or exchange. The tax applies when the Washington
26 capital gains are recognized by the taxpayer in accordance with this
27 chapter.

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

34 NEW SECTION. **Sec. 203.** This chapter does not apply to the sale
35 or exchange of:

36 (1) A principal place of residence with a selling price of
37 \$5,000,000 or less. The residence must have been the individual's
38 principal place of residence for at least 24 full months of the five
39 years immediately preceding the sale or exchange. For the purposes of

1 this subsection, "residence" means a single-family dwelling unit,
2 whether such unit be separate from, or part of, a multiunit dwelling,
3 including the land on which such dwelling unit is located. "Selling
4 price" has the same meaning as in RCW 82.45.030;

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

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

19 (4) Cattle, horses, or breeding livestock held for more than 12
20 months if, for the taxable year of the sale or exchange, more than 50
21 percent of the taxpayer's gross income for the taxable year,
22 including from the sale or exchange of capital assets, is from
23 farming or ranching;

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

30 (6) Property used in a trade or business if the property is
31 depreciable under Title 26 U.S.C. Sec. 167 of the internal revenue
32 code, or qualifies for expensing under Title 26 U.S.C. Sec. 179 of
33 the internal revenue code; and

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

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

3 NEW SECTION. **Sec. 204.** The tax imposed under this chapter is in
4 addition to any other taxes imposed by the state or any of its
5 political subdivisions, or a municipal corporation, with respect to
6 the same sale or exchange, including the taxes imposed in or under
7 the authority of chapter 82.04, 82.08, 82.12, 82.14, 82.45, or 82.46
8 RCW.

9 NEW SECTION. **Sec. 205.** In computing tax, there may be deducted
10 from the measure of tax amounts that the state is prohibited from
11 taxing under the Constitution of this state or the Constitution or
12 laws of the United States.

13 NEW SECTION. **Sec. 206.** (1) In computing tax under this chapter
14 for a taxable year, a taxpayer may deduct from the measure of tax the
15 amount of adjusted capital gains derived in the taxable year from the
16 sale of substantially all of the fair market value of the assets of,
17 or the transfer of substantially all of the taxpayer's interest in, a
18 qualified family-owned small business, to the extent that such
19 adjusted capital gains would otherwise be included in the taxpayer's
20 Washington capital gains.

21 (2) For purposes of this section, the following definitions
22 apply:

23 (a) "Assets" means real property and personal property, including
24 tangible personal property and intangible personal property.

25 (b) "Family" means the same as "member of the family" in RCW
26 83.100.046.

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

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

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

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

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

6 (iii) (A) That had no more than 50 full-time employees at any time
7 during the 12-month period immediately preceding the sale or transfer
8 described in subsection (1) of this section.

9 (B) For purposes of this subsection (2) (d) (iii), "full-time
10 employee" means an employee who is, or any combination of employees
11 who are, paid by the business for at least 1,820 hours of employment,
12 including paid leave, for the 12-month period described in
13 (d) (iii) (A) of this subsection (2); and

14 (iv) That had worldwide gross revenue of \$10,000,000 or less in
15 the 12-month period immediately preceding the sale or transfer
16 described in subsection (1) of this section.

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

18 (f) "Qualifying interest" means:

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

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

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

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

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

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

31 (g) "Substantially all" means at least 90 percent.

32 NEW SECTION. **Sec. 207.** (1) For purposes of the tax imposed
33 under this chapter, long-term capital gains and losses are allocated
34 to Washington as follows:

35 (a) Long-term capital gains or losses from the sale or exchange
36 of real property are allocated to this state if the real property is
37 located in this state or a majority of the fair market value of the
38 real property is located in this state.

1 (b) Long-term capital gains or losses from the sale or exchange
2 of tangible personal property are allocated to this state if the
3 property was located in this state at the time of the sale or
4 exchange. Adjusted capital gains or losses from the sale or exchange
5 of tangible personal property are also allocated to this state even
6 though the property was not located in this state at the time of the
7 sale or exchange if:

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

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

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

16 (c) Long-term capital gains or losses derived from intangible
17 personal property are allocated to this state if the taxpayer was
18 domiciled in this state at the time the sale or exchange occurred.

19 (2)(a) A credit is allowed against the tax imposed in section 202
20 of this act equal to the amount of any legally imposed income or
21 excise tax paid by the taxpayer to another taxing jurisdiction on
22 capital gains derived from capital assets within the other taxing
23 jurisdiction to the extent such capital gains are included in the
24 taxpayer's Washington capital gains. The amount of credit under this
25 subsection may not exceed the total amount of tax due under this
26 chapter, and there is no carryback or carryforward of any unused
27 credits.

28 (b) As used in this section, "taxing jurisdiction" means a state
29 of the United States other than the state of Washington, the District
30 of Columbia, the Commonwealth of Puerto Rico, any territory or
31 possession of the United States, or any foreign country or political
32 subdivision of a foreign country.

33 (3) If an individual's Washington capital gains include gain from
34 the sale or exchange of real property subject to tax under section
35 202 of this act and chapter 82.45 RCW, a credit is allowed against
36 the tax imposed in section 202 of this act. The credit equals the
37 lesser of \$10,000 or the amount of any real estate excise tax paid by
38 the taxpayer pursuant to chapter 82.45 RCW on the sale or exchange of
39 that real property multiplied by 10 percent. The amount of credit
40 under this subsection may not exceed the total amount of tax due

1 under this chapter, and there is no carryback or carryforward of any
2 unused credits.

3 NEW SECTION. **Sec. 208.** (1) (a) If gain or loss from the exchange
4 of Washington capital assets for non-Washington capital assets is not
5 recognized for federal income tax purposes because of Title 26 U.S.C.
6 Sec. 1031 of the internal revenue code, the taxpayer must file a form
7 prescribed by the department for the taxable year of the exchange and
8 for each subsequent taxable year in which the gain or loss from that
9 exchange has not been recognized for federal income tax purposes.

10 (b) The form under this subsection (1) must include:

11 (i) A description of the capital asset exchanged;

12 (ii) A description of the capital asset acquired;

13 (iii) A description of subsequent capital assets acquired
14 pursuant to an exchange described in Title 26 U.S.C. Sec. 1031 of the
15 internal revenue code;

16 (iv) The amount of gains not recognized because of Title 26
17 U.S.C. Sec. 1031 of the internal revenue code; and

18 (v) Such additional information as the department may prescribe.

19 (c) Information returns under this subsection (1) are due at the
20 same time as capital gains tax returns are due as provided in section
21 209 of this act.

22 (d) An individual is not required to file information returns
23 with the department under this subsection (1) if the individual is
24 not subject to the tax under section 202 of this act for the taxable
25 year of the exchange, unless the taxpayer would have been subject to
26 the tax under section 202 of this act for the taxable year of the
27 exchange, but for the deferral of gain on the exchange pursuant to
28 Title 26 U.S.C. Sec. 1031 of the federal internal revenue code.

29 (e) For purposes of this subsection, the following definitions
30 apply:

31 (i) "Non-Washington capital asset" means a capital asset whose
32 gain or loss from a sale or exchange would not be allocated to
33 Washington under the provisions of section 207 of this act.

34 (ii) "Washington capital asset" means a capital asset whose gain
35 or loss from a sale or exchange would be allocated to Washington
36 under the provisions of section 207 of this act.

37 (2) A taxpayer subject to the reporting requirements of
38 subsection (1) of this section must include any deferred gains in his
39 or her Washington capital gains if the taxpayer must recognize those

1 gains for federal income tax purposes, regardless of whether the
2 transaction causing gain recognition at the federal level generates
3 Washington capital gains. The taxpayer must include gains under this
4 subsection (2) in the same taxable year as he or she recognized those
5 gains for federal income tax purposes.

6 (3) If a taxpayer fails to file an information return required
7 under subsection (1) of this section by the due date, the department
8 may assess against the taxpayer the amount of tax due under this
9 chapter as if the gains had not been deferred for federal income tax
10 purposes, including interest and penalties as provided in chapter
11 82.32 RCW.

12 NEW SECTION. **Sec. 209.** (1)(a) Except as otherwise provided in
13 this section or RCW 82.32.080, taxpayers owing tax under this chapter
14 must file, on forms prescribed by the department, a return with the
15 department on or before the date the taxpayer's federal income tax
16 return for the taxable year is required to be filed.

17 (b)(i) Except as provided in (b)(ii) of this subsection (1),
18 returns and all supporting documents must be filed electronically
19 using the department's online tax filing service or other method of
20 electronic reporting as the department may authorize.

21 (ii) The department may waive the electronic filing requirement
22 in this subsection for good cause as provided in RCW 82.32.080.

23 (c) A taxpayer must file an annual capital gains return, along
24 with any other documents required by the department, if no tax is
25 owed, but the taxpayer has Washington capital gains of at least
26 \$150,000, or \$300,000 if filing a joint return, for the taxable year.

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

32 (3) Each taxpayer required to file a return under this section
33 must, without assessment, notice, or demand, pay any tax due thereon
34 to the department on or before the date fixed for the filing of the
35 return, regardless of any filing extension. The tax must be paid by
36 electronic funds transfer as defined in RCW 82.32.085 or by other
37 forms of electronic payment as may be authorized by the department.
38 The department may waive the electronic payment requirement for good
39 cause as provided in RCW 82.32.080. If any tax due under this chapter

1 is not paid by the due date, interest and penalties as provided in
2 chapter 82.32 RCW apply to the deficiency.

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

6 (5) If a taxpayer has obtained an extension of time for filing
7 the federal income tax return for the taxable year, the taxpayer is
8 entitled to the same extension of time for filing the return required
9 under this section if the taxpayer provides the department, before
10 the due date provided in subsection (1) of this section, the
11 extension confirmation number or other evidence satisfactory to the
12 department confirming the federal extension. An extension under this
13 subsection for the filing of a return under this chapter is not an
14 extension of time to pay the tax due under this chapter.

15 (6) (a) If any return due under subsection (1) of this section,
16 along with a copy of the federal income tax return, is not filed with
17 the department by the due date or any extension granted by the
18 department, the department must assess a penalty in the amount of
19 five percent of the tax due for the taxable year covered by the
20 return for each month or portion of a month that the return remains
21 unfiled. The total penalty assessed under this subsection may not
22 exceed 25 percent of the tax due for the taxable year covered by the
23 delinquent return. The penalty under this subsection is in addition
24 to any penalties assessed for the late payment of any tax due on the
25 return.

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

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

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

33 NEW SECTION. **Sec. 210.** (1) If the federal income tax
34 liabilities of both spouses are determined on a joint federal return
35 for the taxable year, they must file a joint return under this
36 chapter.

37 (2) Except as otherwise provided in this subsection, if the
38 federal income tax liability of either spouse is determined on a
39 separate federal return for the taxable year, they must file separate

1 returns under this chapter. State registered domestic partners may
2 file a joint return under this chapter even if they filed separate
3 federal returns for the taxable year.

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

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

10 (b) The department determines that the domestic partner qualifies
11 for relief as provided by rule of the department. Such rule, to the
12 extent possible without being inconsistent with this chapter, must
13 follow Title 26 U.S.C. Sec. 6015 of the internal revenue code.

14 NEW SECTION. **Sec. 211.** To the extent not inconsistent with the
15 provisions of this chapter, the following statutes apply to the
16 administration of taxes imposed under this chapter: RCW 82.32.050,
17 82.32.055, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090,
18 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130,
19 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190,
20 82.32.200, 82.32.210, 82.32.212, 82.32.220, 82.32.230, 82.32.235,
21 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310,
22 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410,
23 82.32.805, 82.32.808, and section 214 of this act.

24 NEW SECTION. **Sec. 212.** (1) Any taxpayer who knowingly attempts
25 to evade payment of the tax imposed under this chapter is guilty of a
26 class C felony as provided in chapter 9A.20 RCW.

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

30 NEW SECTION. **Sec. 213.** Notwithstanding any common law rule of
31 strict construction of statutes imposing taxes, this chapter, being
32 necessary for the welfare of the state and its inhabitants, must be
33 liberally construed in support of application of the tax.

34 NEW SECTION. **Sec. 214.** A new section is added to chapter 82.04
35 RCW to read as follows:

1 (1) To avoid taxing the same sale or exchange under both the
2 business and occupation tax and the capital gains tax, a credit is
3 allowed against taxes due under this chapter on a sale or exchange
4 that is also subject to the tax imposed under section 202 of this
5 act. The credit is equal to the amount of tax imposed under this
6 chapter on a sale or exchange.

7 (2) The credit may be used against any tax due under this
8 chapter.

9 (3) The credit under this section is earned in regards to a sale
10 or exchange, and may be claimed against the taxes due under this
11 chapter, for the tax reporting period in which the sale or exchange
12 occurred. The credit claimed for a tax reporting period may not
13 exceed the tax otherwise due under this chapter for that reporting
14 period. Unused credit may not be carried forward or backward to
15 another tax reporting period. No refunds may be granted for unused
16 credit under this section.

17 (4) The department must apply the credit first to taxes deposited
18 into the general fund. If any remaining credit reduces the amount of
19 taxes deposited into the workforce education investment account
20 created in RCW 43.79.195, the department must notify the state
21 treasurer of such amounts monthly, and the state treasurer must
22 transfer those amounts from the general fund to the workforce
23 education investment account.

24 NEW SECTION. **Sec. 215.** A new section is added to chapter 82.32
25 RCW to read as follows:

26 (1) The department may enter into reciprocal tax collection
27 agreements with the taxing officials of any other state imposing a
28 specified tax. Agreements authorized under this section must require
29 each state to offset delinquent specified taxes owed by a taxpayer to
30 one party to the agreement, including any associated penalties,
31 interest, or other additions, against refunds of overpaid specified
32 taxes owed to the taxpayer by the other party to the agreement. Such
33 agreements may also include provisions governing the sharing of
34 information relevant to the administration of specified taxes.
35 However, the department may not share return or tax information with
36 other states except as allowed under RCW 82.32.330. Likewise, the
37 department may not share federal tax information with other states
38 without the express written consent of the internal revenue service.

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

3 (a) "Specified taxes" means generally applicable state and local
4 sales taxes and use taxes, broad-based state gross receipts taxes,
5 state income taxes, and stand-alone state taxes on capital gains or
6 interest and dividends. "Specified taxes" include, but are not
7 limited to, the taxes imposed in or under the authority of chapters
8 82.04, 82.08, 82.12, 82.14, 82.16, and 82.--- RCW (the new chapter
9 created in section 302 of this act), and similar taxes imposed by
10 another state. For purposes of this subsection (2)(a), "gross
11 receipts tax," "income tax," "sales tax," and "use tax" have the same
12 meanings as provided in RCW 82.56.010.

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

14 NEW SECTION. **Sec. 216.** (1) Beginning January 1, 2022, through
15 June 30, 2025, the amounts received for the tax imposed under this
16 chapter must be deposited as follows:

17 (a) Fifty percent must be deposited into the fair start for kids
18 account created in section 101, chapter . . . (House Bill No. 1213),
19 Laws of 2021; and

20 (b) Fifty percent must be deposited into the general fund.

21 (2) Beginning July 1, 2025, the amounts received for the tax
22 imposed under this chapter must be deposited as follows:

23 (a) Sixty percent must be deposited into the fair start for kids
24 account created in section 101, chapter . . . (House Bill No. 1213),
25 Laws of 2021; and

26 (b) Forty percent must be deposited into the general fund.

27 **Part III**

28 **Miscellaneous Provisions**

29 NEW SECTION. **Sec. 301.** The provisions of RCW 82.32.805 and
30 82.32.808 do not apply to this act.

31 NEW SECTION. **Sec. 302.** Sections 101, 201 through 213, and 216
32 of this act constitute a new chapter in Title 82 RCW.

33 NEW SECTION. **Sec. 303.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 304.** (1) If a court of competent
4 jurisdiction, in a final judgment not subject to appeal, adjudges
5 section 202 of this act unconstitutional or otherwise invalid in its
6 entirety, section 214 of this act is null and void in its entirety.
7 Any credits previously claimed under section 214 of this act must be
8 repaid within 30 days of the department of revenue's notice of the
9 amount due.

10 (2) If the taxpayer fails to repay the credit by the due date,
11 interest and penalties as provided in chapter 82.32 RCW apply to the
12 deficiency.

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