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ENGROSSED HOUSE BILL 2096

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State of Washington

67th Legislature

2022 Regular Session

By Representatives Thai, Frame, Berry, Sutherland, Kloba, and Pollet;  
by request of Department of Revenue

Read first time 01/26/22. Referred to Committee on Finance.

1 AN ACT Relating to the working families' tax exemption, also  
2 known as the working families tax credit; and amending RCW  
3 82.08.0206, 82.32.050, and 82.32.290.

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

5 **Sec. 1.** RCW 82.08.0206 and 2021 c 195 s 2 are each amended to  
6 read as follows:

7 (1) A working families' tax ~~((exemption))~~ credit, in the form of  
8 a ~~((remittance))~~ refund of tax due under this chapter and chapter  
9 82.12 RCW, is provided to eligible low-income persons for sales and  
10 use taxes paid under this chapter and chapter 82.12 RCW after January  
11 1, 2022.

12 (2) For purposes of the ~~((exemption))~~ credit in this section, the  
13 following definitions apply:

14 (a) (i) ~~((Except as provided in (a)(ii) of this subsection,~~  
15 ~~"eligible"))~~ "Eligible low-income person" means an individual who:

16 (A) Is eligible for the credit provided in Title 26 U.S.C. Sec.  
17 32 of the internal revenue code; and

18 (B) Properly files a federal income tax return ~~((as a Washington~~  
19 ~~resident))~~ for the prior federal tax year, and ~~((has been a resident~~  
20 ~~of the state of Washington more than one hundred eighty days of the~~

1 year)) was a Washington resident during the year for which the  
2 ((exemption)) credit is claimed.

3 (ii) "Eligible low-income person" also means an individual who:

4 (A) Meets the requirements provided in (a)(i)(B) of this  
5 subsection; and

6 (B) Would otherwise qualify for the credit provided in Title 26  
7 U.S.C. Sec. 32 of the internal revenue code except for the fact that  
8 the individual filed a federal income tax return ~~((in))~~ for the prior  
9 federal tax year using a valid individual taxpayer identification  
10 number in lieu of a social security number, ~~((or))~~ and the  
11 ~~((individual has a))~~ individual's spouse ~~((or dependent without))~~, if  
12 any, and all qualifying children, if any, have a valid individual  
13 taxpayer identification number or a social security number.

14 (b) "Income" means earned income as defined by Title 26 U.S.C.  
15 Sec. 32 of the internal revenue code.

16 (c) "Individual" means an individual or an individual and that  
17 individual's spouse if they file a federal joint income tax return.

18 (d) "Internal revenue code" means the United States internal  
19 revenue code of 1986, as amended, as of the effective date of this  
20 section, or such subsequent date as the department may provide by  
21 rule consistent with the purpose of this section.

22 (e) "Qualifying child" means a qualifying child as defined by  
23 Title 26 U.S.C. Sec. 32 of the internal revenue code, except the  
24 child may have a valid individual taxpayer identification number in  
25 lieu of a social security number.

26 (f) "Washington resident" means an individual who is physically  
27 present and residing in this state for at least 183 days. "Washington  
28 resident" also includes an individual who is not physically present  
29 and residing in this state for at least 183 days but is the spouse of  
30 a Washington resident. For purposes of this subsection, "day" means a  
31 calendar day or any portion of a calendar day.

32 (3) (a) Except as provided in (b) and (c) of this subsection, for  
33 calendar year 2023 and thereafter, the working families' tax  
34 ~~((remittance))~~ credit refund amount for the prior calendar year is:

35 (i) \$300 for eligible persons with no qualifying children;

36 (ii) \$600 for eligible persons with one qualifying child;

37 (iii) \$900 for eligible persons with two qualifying children; or

38 (iv) \$1,200 for eligible persons with three or more qualifying  
39 children.

1 (b) The ~~((remittance))~~ refund amounts provided in (a) of this  
2 subsection will be reduced, rounded to the nearest dollar, as  
3 follows:

4 (i) For eligible persons with no qualifying children, beginning  
5 at \$2,500 of income below the federal phase-out income for the prior  
6 federal tax year, by 18 percent per additional dollar of income until  
7 the minimum credit amount as specified in (c) of this subsection is  
8 reached.

9 (ii) For eligible persons with one qualifying child, beginning at  
10 \$5,000 of income below the federal phase-out income for the prior  
11 federal tax year, by 12 percent per additional dollar of income until  
12 the minimum credit amount as specified in (c) of this subsection is  
13 reached.

14 (iii) For eligible persons with two qualifying children,  
15 beginning at \$5,000 of income below the federal phase-out income for  
16 the prior federal tax year, by 15 percent per additional dollar of  
17 income until the minimum credit amount as specified in (c) of this  
18 subsection is reached.

19 (iv) For eligible persons with three or more qualifying children,  
20 beginning at \$5,000 of income below the federal phase-out income for  
21 the prior federal tax year, by 18 percent per additional dollar of  
22 income until the minimum credit amount as specified in (c) of this  
23 subsection is reached.

24 (c) If the ~~((remittance))~~ refund for an eligible person as  
25 calculated in this section is greater than or equal to one cent, but  
26 less than \$50, the ~~((remittance))~~ refund amount is \$50.

27 (d) The ~~((remittance))~~ refund amounts in this section shall be  
28 adjusted for inflation every year beginning January 1, 2024, based  
29 upon changes in the consumer price index ~~((during the previous  
30 ealendar year))~~ that are published by November 15th of the previous  
31 year for the most recent 12-month period. The adjusted refund amounts  
32 must be rounded to the nearest \$5.00.

33 (e) For purposes of this section, "consumer price index" means,  
34 for any ~~((ealendar year))~~ 12-month period, ~~((that year's))~~ the  
35 average consumer price index for that 12-month period for the  
36 Seattle, Washington area for urban wage earners and clerical workers,  
37 all items, compiled by the bureau of labor statistics, United States  
38 department of labor.

39 (4) The working families' tax ~~((exemption))~~ credit shall be  
40 administered as provided in this subsection.

1 (a) The ~~((remittance))~~ refund paid under this section will be  
2 paid to eligible filers who apply pursuant to this subsection.

3 (i) Application must be made to the department in a form and  
4 manner determined by the department. If the application process is  
5 initially done electronically, the department must provide a paper  
6 application upon request. The application must include any  
7 information and documentation as required by the department.

8 (ii) Application for the ~~((remittance))~~ refund under this section  
9 must be made in the year following the year for which the federal tax  
10 return was filed, but in no case may any ~~((remittance))~~ refund be  
11 provided for any period before January 1, 2022. The department must  
12 use the eligible person's most recent federal tax filing for the tax  
13 year for which the refund is being claimed to ~~((process))~~ calculate  
14 the ~~((remittance))~~ refund.

15 (iii) A person may not claim ~~((an exemption))~~ a credit on behalf  
16 of a deceased individual. No individual may claim ~~((an exemption))~~ a  
17 credit under this section for any year in a disallowance period under  
18 Title 26 U.S.C. Sec. 32(k)(1) of the internal revenue code or for any  
19 year for which the individual is ineligible to claim the credit in  
20 Title 26 U.S.C. Sec. 32 of the internal revenue code by reason of  
21 Title 26 U.S.C. Sec. 32(k)(2) of the internal revenue code.

22 (b) The department shall protect the privacy and confidentiality  
23 of personal data of ~~((remittance))~~ refund recipients in accordance  
24 with chapter 82.32 RCW.

25 (c) The department shall, in conjunction with other agencies or  
26 organizations, design and implement a public information campaign to  
27 inform potentially eligible persons of the existence of, and  
28 requirements for, the credit provided in this section.

29 (d) The department must work with the internal revenue service to  
30 administer the ~~((exemption))~~ credit on an automatic basis as soon as  
31 practicable.

32 (5) Receipt of the ~~((remittance))~~ refund under this section may  
33 not be used in eligibility determinations for any state income  
34 support programs or in making public charge determinations.

35 (6) The department may adopt rules necessary to implement this  
36 section. This includes establishing a date by which applications will  
37 be accepted, with the aim of accepting applications as soon as  
38 possible. ~~((The department may gather necessary data through audit  
39 and other administrative records, including verification through  
40 internal revenue service data.))~~

1 (7) The department must review the application and determine  
2 eligibility for the working families' tax (~~(exemption)~~) credit based  
3 on information provided by the applicant and through audit and other  
4 administrative records, including, when it deems it necessary,  
5 verification through internal revenue service data.

6 (8) If, upon review of internal revenue service data or other  
7 information obtained by the department, it appears that an individual  
8 received a (~~(remittance)~~) refund that the individual was not entitled  
9 to, or received a larger (~~(remittance)~~) refund than the individual  
10 was entitled to, the department may assess against the individual the  
11 overpaid amount. The department may also assess such overpaid amount  
12 against the individual's spouse if the (~~(remittance)~~) refund in  
13 question was based on both spouses filing a joint federal income tax  
14 return for the year for which the (~~(remittance)~~) refund was claimed.

15 (a) Interest as provided under RCW 82.32.050 applies to  
16 assessments authorized under this subsection (8) starting six months  
17 after the date the department issued the assessment until the amount  
18 due under this subsection (8) is paid in full to the department.  
19 Except as otherwise provided in this subsection, penalties may not be  
20 assessed on amounts due under this subsection.

21 (b) If an amount due under this subsection is not paid in full by  
22 the date due, or the department issues a warrant for the collection  
23 of amounts due under this subsection, the department may assess the  
24 applicable penalties under RCW 82.32.090. Penalties under this  
25 subsection (8)(b) may not be made due until six months after  
26 (~~(their)~~) the department's issuance of the assessment.

27 (c) If the department finds by clear, cogent, and convincing  
28 evidence that an individual knowingly submitted, caused to be  
29 submitted, or consented to the submission of, a fraudulent claim for  
30 (~~(remittance)~~) refund under this section, the department must assess  
31 a penalty of 50 percent of the overpaid amount. This penalty is in  
32 addition to any other applicable penalties assessed in accordance  
33 with (b) of this subsection (8).

34 (9) If, within the period allowed for refunds under RCW  
35 82.32.060, the department finds that an individual received a lesser  
36 (~~(remittance)~~) refund than the individual was entitled to, the  
37 department must remit the additional amount due under this section to  
38 the individual.

39 (10) Interest does not apply to (~~(remittances)~~) refunds provided  
40 under (~~(chapter 195, Laws of 2021)~~) this section.

1 (11) Chapter 82.32 RCW applies to the administration of this  
2 section.

3 **Sec. 2.** RCW 82.32.050 and 2020 c 139 s 60 are each amended to  
4 read as follows:

5 (1) If upon examination of any returns or from other information  
6 obtained by the department it appears that a tax or penalty has been  
7 paid less than that properly due, the department shall assess against  
8 the taxpayer such additional amount found to be due and shall add  
9 thereto interest on the tax only. The department shall notify the  
10 taxpayer by mail, or electronically as provided in RCW 82.32.135, of  
11 the additional amount and the additional amount shall become due and  
12 shall be paid within thirty days from the date of the notice, or  
13 within such further time as the department may provide.

14 (a) For tax liabilities arising before January 1, 1992, interest  
15 shall be computed at the rate of nine percent per annum from the last  
16 day of the year in which the deficiency is incurred until the earlier  
17 of December 31, 1998, or the date of payment. After December 31,  
18 1998, the rate of interest shall be variable and computed as provided  
19 in subsection (2) of this section. The rate so computed shall be  
20 adjusted on the first day of January of each year for use in  
21 computing interest for that calendar year.

22 (b) For tax liabilities arising after December 31, 1991, the rate  
23 of interest shall be variable and computed as provided in subsection  
24 (2) of this section from the last day of the year in which the  
25 deficiency is incurred until the date of payment. The rate so  
26 computed shall be adjusted on the first day of January of each year  
27 for use in computing interest for that calendar year.

28 (c) (i) Except as otherwise provided in (c) (ii) of this subsection  
29 (1), interest imposed after December 31, 1998, shall be computed from  
30 the last day of the month following each calendar year included in a  
31 notice, and the last day of the month following the final month  
32 included in a notice if not the end of a calendar year, until the due  
33 date of the notice.

34 (ii) For interest associated with annual tax reporting periods  
35 having a due date as prescribed in RCW 82.32.045(3), interest must be  
36 computed from the last day of April immediately following each such  
37 annual reporting period included in the notice, until the due date of  
38 the notice.

1 (iii) If payment in full is not made by the due date of the  
2 notice, additional interest shall be computed under this subsection  
3 (1)(c) until the date of payment. The rate of interest shall be  
4 variable and computed as provided in subsection (2) of this section.  
5 The rate so computed shall be adjusted on the first day of January of  
6 each year for use in computing interest for that calendar year.

7 (2) For the purposes of this section, the rate of interest to be  
8 charged to the taxpayer shall be an average of the federal short-term  
9 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.  
10 The rate set for each new year shall be computed by taking an  
11 arithmetical average to the nearest percentage point of the federal  
12 short-term rate, compounded annually. That average shall be  
13 calculated using the rates from four months: January, April, and July  
14 of the calendar year immediately preceding the new year, and October  
15 of the previous preceding year.

16 (3) During a state of emergency declared under RCW 43.06.010(12),  
17 the department, on its own motion or at the request of any taxpayer  
18 affected by the emergency, may extend the due date of any assessment  
19 or correction of an assessment for additional taxes, penalties, or  
20 interest as the department deems proper.

21 (4) No assessment or correction of an assessment for additional  
22 taxes, penalties, or interest due may be made by the department more  
23 than four years after the close of the tax year, except (a) against a  
24 taxpayer who has not registered as required by this chapter, (b) upon  
25 a showing of fraud or of misrepresentation of a material fact by the  
26 taxpayer, or (c) where a taxpayer has executed a written waiver of  
27 such limitation. The execution of a written waiver shall also extend  
28 the period for making a refund or credit as provided in RCW  
29 82.32.060(2).

30 (5) For the purposes of this section, "return" means any document  
31 a person is required by the state of Washington to file to satisfy or  
32 establish a tax or fee obligation that is administered or collected  
33 by the department (~~of revenue~~) and that has a statutorily defined  
34 due date. "Return" also means an application for refund under RCW  
35 82.08.0206.

36 **Sec. 3.** RCW 82.32.290 and 2013 c 309 s 2 are each amended to  
37 read as follows:

38 (1)(a) It is unlawful:

1 (i) For any person to engage in business without having obtained  
2 a certificate of registration as provided in this chapter;

3 (ii) For the president, vice president, secretary, treasurer, or  
4 other officer of any company to cause or permit the company to engage  
5 in business without having obtained a certificate of registration as  
6 provided in this chapter;

7 (iii) For any person to tear down or remove any order or notice  
8 posted by the department in violation of this chapter;

9 (iv) For any person to aid or abet another in any attempt to  
10 evade the payment of any tax or any part thereof;

11 (v) For any purchaser to fraudulently sign or furnish to a seller  
12 documentation authorized under RCW 82.04.470 without intent to resell  
13 the property purchased or with intent to otherwise use the property  
14 in a manner inconsistent with the claimed wholesale purchase; or

15 (vi) For any person to fail or refuse to permit the examination  
16 of any book, paper, account, record, or other data by the department  
17 or its duly authorized agent; or to fail or refuse to permit the  
18 inspection or appraisal of any property by the department or its duly  
19 authorized agent; or to refuse to offer testimony or produce any  
20 record as required.

21 (b) Any person violating any of the provisions of this subsection  
22 (1) is guilty of a gross misdemeanor in accordance with chapter 9A.20  
23 RCW.

24 (2)(a) It is unlawful:

25 (i) For any person to engage in business after revocation of a  
26 certificate of registration unless the person's certification of  
27 registration has been reinstated;

28 (ii) For the president, vice president, secretary, treasurer, or  
29 other officer of any company to cause or permit the company to engage  
30 in business after revocation of a certificate of registration unless  
31 the company's certificate of registration has been reinstated; or

32 (iii) For any person to make any false or fraudulent return or  
33 false statement in any return, with intent to defraud the state or  
34 evade the payment of any tax or part thereof.

35 (b) Any person violating any of the provisions of this subsection  
36 (2) is guilty of a class C felony in accordance with chapter 9A.20  
37 RCW.

38 (3) In addition to the foregoing penalties, any person who  
39 knowingly swears to or verifies any false or fraudulent return, or  
40 any return containing any false or fraudulent statement with the



1 intent aforesaid, is guilty of the offense of perjury in the second  
2 degree((~~r~~)) and ((~~any company for which a false return, or a return~~  
3 ~~containing a false statement, as aforesaid, is made,~~)) must be  
4 punished, upon conviction thereof, by a fine of not more than one  
5 thousand dollars.

6 (4)(a) It is unlawful for any person to knowingly sell, purchase,  
7 install, transfer, manufacture, create, design, update, repair, use,  
8 possess, or otherwise make available, in this state, any automated  
9 sales suppression device or phantom-ware. However, it is not unlawful  
10 for persons to possess or use automated sales suppression devices or  
11 phantom-ware as authorized in RCW 82.32.670(6).

12 (b) It is unlawful for any person who has been convicted of  
13 violating this section to engage in business, or participate in any  
14 business as an owner, officer, director, partner, trustee, member, or  
15 manager of the business, unless:

16 (i) All taxes, penalties, and interest lawfully due are paid;

17 (ii) The person pays in full all penalties and fines imposed on  
18 the person for violating this section; and

19 (iii) The person, if the person is engaging in business subject  
20 to tax under this title, or the business in which the person  
21 participates, enters into a written agreement with the department for  
22 the electronic monitoring of the business's sales, by a method  
23 acceptable to the department, for five years at the business's  
24 expense.

25 (c)(i) Any person violating the provisions of this subsection,  
26 including material breach of the monitoring agreement under (b)(iii)  
27 of this subsection, is guilty of a class C felony in accordance with  
28 chapter 9A.20 RCW and, as applicable, (c)(ii) of this subsection.

29 (ii) Any person violating the provisions of this subsection by  
30 furnishing an automated sales suppression device or phantom-ware to  
31 another person or by updating or repairing another person's automated  
32 sales suppression device or phantom-ware is, in addition to the  
33 punishments prescribed in chapter 9A.20 RCW, subject to a mandatory  
34 fine fixed by the court in an amount equal to the greater of ten  
35 thousand dollars, the defendant's gain from the commission of the  
36 crime, or the state's loss from the commission of the crime. For  
37 purposes of this subsection (4)(c)(ii), "loss" means the total of all  
38 taxes, penalties, and interest certified by the department to be due,  
39 as of the date of sentencing, as a result of any violation of the  
40 provisions of this subsection by a person using the automated sales

1 suppression device or phantom-ware obtained from, or updated or  
2 repaired by, the defendant, which results in the defendant's  
3 conviction for violating the provisions of this subsection.

4 (d) For the purposes of this subsection (4), the terms "manager,"  
5 "member," and "officer" have the same meaning as in RCW 82.32.145.

6 (e) The definitions in RCW 82.32.670 apply to this subsection  
7 (4).

8 (5) All penalties or punishments provided in this section are in  
9 addition to all other penalties provided by law.

10 (6) For the purposes of this section, "return" has the same  
11 meaning as in RCW 82.32.050.

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