

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2096

67th Legislature
2022 Regular Session

Passed by the House February 12, 2022
Yeas 96 Nays 2

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2022
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2096** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2096

Passed Legislature - 2022 Regular Session

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((~~+~~)) 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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