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**SENATE BILL 5216**

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**State of Washington**                      **67th Legislature**                      **2021 Regular Session**

**By** Senators Carlyle, Conway, Hasegawa, Hunt, Nguyen, and Wilson, C.

Read first time 01/14/21. Referred to Committee on Ways & Means.

1            AN ACT Relating to additional transparency and accountability for  
2 tax preferences; amending RCW 82.32.330, 43.136.045, 43.88A.040,  
3 82.32.808, 82.32.534, and 43.06.400; adding new sections to chapter  
4 82.32 RCW; and creating a new section.

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

6            NEW SECTION.    **Sec. 1.** (1) The legislature finds that Washington  
7 has among the largest number of tax preferences (i.e., credits,  
8 exemptions, deductions, and preferential rates) in the nation due in  
9 large part to the unique nature of the state's tax structure. The  
10 legislature finds that measuring and assessing the efficacy of such  
11 preferences is essential to ensure the most effective use of public  
12 resources, and that public access to easily available data is vital  
13 to conduct such evaluations.

14            (2) The legislature finds that comprehensive analysis and  
15 evaluation of the efficacy of tax preferences assists lawmakers and  
16 the public in understanding the benefits of specific tax policy  
17 decisions to taxpayers, local economies, and the state. The  
18 legislature further finds the relevant information critical for such  
19 analysis is frequently not reported to the state department of  
20 revenue by taxpayers or is not publicly available. The legislature  
21 further finds the lack of accurate and ascertainable information has

1 prevented the joint legislative audit and review committee tax  
2 preference performance review process from achieving the rigor of  
3 evaluation necessary to draw firm conclusions. The legislature  
4 further finds that this also limits the ability of lawmakers to  
5 access data of material importance for assessing proposed tax  
6 preference legislation or to fairly and accurately evaluate the  
7 merits of existing tax preferences. The legislature further finds  
8 that Washington state has been a leader among states since passage of  
9 the public disclosure act by initiative in 1972 in public disclosure  
10 of government records, state budget documents, and campaign finance  
11 and spending. The legislature further finds that similar leadership  
12 in the area of the public disclosure of tax preferences would allow  
13 the legislature and the public to assess the true impact of current  
14 tax policy or proposed tax legislation in a manner that is currently  
15 unattainable due to aggregated, anonymous data. Therefore, the  
16 legislature intends to establish consistent standards for the  
17 collection of data for the purposes of improving analysis of tax  
18 preferences and their benefits and public policy objective outcomes  
19 for taxpayers and relevant industries. The legislature further  
20 intends to make such information subject to public disclosure  
21 wherever possible to enable and improve lawmakers' and the public's  
22 understanding of the benefits and costs of tax preferences while  
23 ensuring that the release of such information does not cause economic  
24 harm to taxpayers claiming such preferences.

## 25 **Part I**

### 26 **Improving Tax Preference Data Collection**

27 NEW SECTION. **Sec. 101.** A new section is added to chapter 82.32  
28 RCW to read as follows:

29 In determining a taxpayer's taxable amount, a taxpayer required  
30 to file a return with the department to report taxes due under  
31 chapter 82.04 or 82.16 RCW must separately report the amount of any  
32 tax deduction on such return. For purposes of this section,  
33 "deduction" has the same meaning as in section 102 of this act.

34 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.32  
35 RCW to read as follows:

36 (1) The department must establish a reporting code to uniquely  
37 identify selected business tax incentives. The department may, at its

1 sole discretion, establish reporting codes to uniquely identify any  
2 other tax preferences reported to the department on a return required  
3 under this chapter.

4 (2) Subsection (1) of this section applies only to returns filed  
5 electronically.

6 (3) The department must establish unique reporting codes  
7 described under subsection (4) of this section by January 1, 2023.

8 (4) (a) For purposes of this section and except as provided in (c)  
9 of this subsection, "selected business tax incentive" means any of  
10 the tax preferences specified in (b) of this subsection, if the  
11 department determines that all or a majority of the taxpayers  
12 entitled or likely to claim the tax preference are businesses.

13 (b) Selected business tax incentives are limited to the following  
14 tax preferences meeting the requirements in (a) of this subsection:

15 (i) Deductions and credits under chapters 82.04 and 82.16 RCW;

16 (ii) Sales and use tax exemptions and credits. This subsection  
17 (4) (b) (ii) does not include exclusions from the definition of retail  
18 sale, selling price, or other definitional exclusions; and

19 (iii) Preferential business and occupation tax rates.

20 (c) "Selected business tax incentive" does not include any tax  
21 preference:

22 (i) Enacted as part of the revenue act of 1935 (chapter 180, Laws  
23 of 1935);

24 (ii) Enacted for the purposes of ensuring compliance with the  
25 state Constitution or the Constitution or laws of the United States;

26 (iii) Enacted for the purpose of eliminating multiple taxation of  
27 the same activity, transaction, or income;

28 (iv) That requires taxpayers to file a tax preference report  
29 under RCW 82.32.534; or

30 (v) That is obsolete or redundant.

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

33 (i) "Business" means a person engaging in business but does not  
34 include:

35 (A) A nonprofit entity;

36 (B) A public entity, including any entity created by one or more  
37 governments; or

38 (C) An individual in his or her capacity as an employee.

39 (ii) "Deduction" means a tax preference that allows specified  
40 amounts to be deducted from the measure of tax, and the statute

1 authorizing the deduction explicitly contains some form of the word  
2 "deduct."

3 (iii) "Preferential business and occupation tax rate" means a  
4 reduced tax rate under chapter 82.04 RCW provided to a specified  
5 group of taxpayers otherwise taxable under a nonpreferential rate  
6 within an existing tax classification rather than to all taxpayers  
7 within the existing tax classification, regardless of whether the  
8 reduced tax rate applies to activities that were formerly taxed at a  
9 lower rate in addition to activities that were formerly taxed at a  
10 higher rate. "Preferential business and occupation tax rate" does not  
11 include the general rates for persons engaging in business as an  
12 extractor, extractor for hire, manufacturer, or processor for hire;  
13 persons making retail sales; persons making wholesale sales; persons  
14 engaging in the activities taxed under RCW 82.04.280(1) (b) or (g);  
15 or persons engaging in activities taxed under RCW 82.04.290(2) (a).

16 (iv) "Taxpayer" means a person who is registered with the  
17 department to file returns for any of the taxes imposed in chapter  
18 82.04, 82.08, 82.12, or 82.16 RCW. With respect to sales and use tax  
19 exemptions, "taxpayer" also includes any person regardless of whether  
20 the person is registered with the department for tax purposes.

21 (5) The department must by rule provide a list of all selected  
22 business incentives and must endeavor to keep the rule up-to-date.

23 **Part II**  
24 **Authorizing Public Disclosure of State Tax Information for Nonprofits**  
25 **and Governmental Entities**

26 **Sec. 201.** RCW 82.32.330 and 2011 c 174 s 404 are each amended to  
27 read as follows:

28 (1) For purposes of this section:

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

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

37 (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
38 nature, source, or amount of the taxpayer's income, payments,

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

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

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

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

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

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

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

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

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

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

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

24 (c) Disclosing the name of a taxpayer against whom a warrant  
25 under RCW 82.32.210 has been either issued or filed and remains  
26 outstanding for a period of at least (~~ten~~) 10 working days. The  
27 department is not required to disclose any information under this  
28 subsection if a taxpayer has entered a deferred payment arrangement  
29 with the department for the payment of a warrant that has not been  
30 filed and is making payments upon such deficiency that will fully  
31 satisfy the indebtedness within twelve months;

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

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

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

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

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

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

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

34 (k) Disclosing, in a manner that is not associated with other tax  
35 information, the taxpayer name, entity type, business address,  
36 mailing address, revenue tax registration numbers, reseller permit  
37 numbers and the expiration date and status of such permits, North  
38 American industry classification system or standard industrial  
39 classification code of a taxpayer, and the dates of opening and  
40 closing of business. This subsection may not be construed as giving

1 authority to the department to give, sell, or provide access to any  
2 list of taxpayers for any commercial purpose;

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

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

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

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

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

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

27 (r) Disclosing such return or tax information to the court in  
28 respect to the department's application for a subpoena under RCW  
29 82.32.117;

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

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

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



1 (ii) Auditing certified service providers or certified automated  
2 systems providers; (~~or~~)

3 (u) Disclosing the amount of any tax preference claimed by a  
4 taxpayer filing an annual tax preference report under RCW 82.32.534  
5 or any new tax preference as provided in RCW 82.32.808(8);

6 (v) Disclosing such return or tax information if the taxpayer is  
7 a local governmental entity or nonprofit organization; and

8 (w) Disclosing any such return or tax information when the  
9 disclosure is specifically authorized under any other section of the  
10 Revised Code of Washington.

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

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

36 (c) The person in possession of the data, materials, or documents  
37 to be disclosed by the department has (~~twenty~~) 20 days from the  
38 receipt of the written request required under (b) of this subsection  
39 to petition the superior court of the county in which the petitioner

1 resides for injunctive relief. The court must limit or deny the  
2 request of the department if the court determines that:

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

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

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

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

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

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

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

1 **Part III**

2 **Requiring a Joint Legislative Audit and Review Committee Review of**  
3 **the Senior Citizen Property Tax Relief Program and Research and**  
4 **Development Incentives**

5 **Sec. 301.** RCW 43.136.045 and 2011 c 335 s 2 are each amended to  
6 read as follows:

7 (1) The citizen commission for performance measurement of tax  
8 preferences must develop a schedule to accomplish an orderly review  
9 of tax preferences at least once every ~~((ten))~~ 10 years. In  
10 determining the schedule, the commission must consider the order the  
11 tax preferences were enacted into law, in addition to other factors  
12 including but not limited to grouping preferences for review by type  
13 of industry, economic sector, or policy area. The commission may  
14 elect to include, anywhere in the schedule, a tax preference that has  
15 a statutory expiration date. The commission must omit from the  
16 schedule tax preferences that are required by constitutional law,  
17 sales and use tax exemptions for machinery and equipment for  
18 manufacturing, ~~((research and development, or testing,))~~ the small  
19 business credit for the business and occupation tax, sales and use  
20 tax exemptions for food and prescription drugs, ~~((property tax relief~~  
21 ~~for retired persons,))~~ and property tax valuations based on current  
22 use, and may omit any tax preference that the commission determines  
23 is a critical part of the structure of the tax system. As an  
24 alternative to the process under RCW 43.136.055, the commission may  
25 recommend to the joint legislative audit and review committee an  
26 expedited review process for any tax preference.

27 (2) The commission must revise the schedule as needed each year,  
28 taking into account newly enacted or terminated tax preferences. The  
29 commission must deliver the schedule to the joint legislative audit  
30 and review committee by September 1st of each year.

31 (3) The commission must provide a process for effective citizen  
32 input during its deliberations.

33 **Part IV**

34 **Authorizing Legislators to Request Additional Information on Fiscal**  
35 **Notes for Tax Incentives**

36 **Sec. 401.** RCW 43.88A.040 and 1979 c 151 s 148 are each amended  
37 to read as follows:



1 (e) Tax preferences intended to provide tax relief for certain  
2 businesses or individuals; or

3 (f) A general purpose not identified in (a) through (e) of this  
4 subsection.

5 (3) In addition to identifying the general legislative purpose of  
6 the tax preference under subsection (2) of this section, the tax  
7 preference performance statement must provide additional detailed  
8 information regarding the legislative purpose of the new tax  
9 preference.

10 (4) A new tax preference performance statement must specify  
11 clear, relevant, and ascertainable metrics and data requirements that  
12 allow the joint legislative audit and review committee and the  
13 legislature to measure the effectiveness of the new tax preference in  
14 achieving the purpose designated under subsection (2) of this  
15 section.

16 (5) If the tax preference performance statement for a new tax  
17 preference indicates a legislative purpose described in subsection  
18 (2)(b) or (c) of this section, any taxpayer claiming the new tax  
19 preference must file an annual tax performance report in accordance  
20 with RCW 82.32.534.

21 (6) If a new tax preference indicates a legislative purpose  
22 described in subsection (2)(b) or (c) of this section and the fiscal  
23 note for the new tax preference indicates that at least 90 percent of  
24 the benefit of the tax preference will accrue to 10 or fewer  
25 taxpayers, the new tax preference must include provisions requiring  
26 taxpayers using the tax preference to pay back the amount of the tax  
27 savings from the preference if the employment or wage standards, or  
28 both, specified in the tax preference performance statement are not  
29 met.

30 (7)(a) Taxpayers claiming a new tax preference must report the  
31 amount of the tax preference claimed by the taxpayer to the  
32 department as otherwise required by statute or determined by the  
33 department as part of the taxpayer's regular tax reporting  
34 responsibilities. For new tax preferences allowing certain types of  
35 gross income of the business to be excluded from business and  
36 occupation or public utility taxation, the tax return must explicitly  
37 report the amount of the exclusion, regardless of whether it is  
38 structured as an exemption or deduction, if the taxpayer is otherwise  
39 required to report taxes to the department on a monthly or quarterly  
40 basis. For a new sales and use tax exemption, the total purchase

1 price or value of the exempt product or service subject to the  
2 exemption claimed by the buyer must be reported on an addendum to the  
3 buyer's tax return if the buyer is otherwise required to report taxes  
4 to the department on a monthly or quarterly basis and the buyer is  
5 required to submit an exemption certificate, or similar document, to  
6 the seller.

7 (b) This subsection does not apply to:

8 (i) Property tax exemptions;

9 (ii) Tax preferences required by constitutional law;

10 (iii) Tax preferences for which the tax benefit to the taxpayer  
11 is less than (~~one thousand dollars~~) \$1,000 per calendar year; or

12 (iv) Taxpayers who are annual filers.

13 (c) The department may waive the filing requirements of this  
14 subsection for taxpayers who are not required to file electronically  
15 any return or report under this chapter.

16 (~~(7)~~) (8)(a) Except as otherwise provided in this subsection,  
17 the amount (~~claimed~~) of tax savings by a taxpayer for any new tax  
18 preference is subject to public disclosure and is not considered  
19 confidential tax information under RCW 82.32.330, if the reporting  
20 periods subject to disclosure ended at least (~~twenty-four~~) 24  
21 months prior to the date of disclosure and the taxpayer is required  
22 to report the amount of the tax preference claimed by the taxpayer to  
23 the department under subsection (~~(6)~~) (7) of this section.

24 (b) (i) The department may waive the public disclosure requirement  
25 under (a) of this subsection (~~(7)~~) (8) for good cause. Good cause  
26 may be demonstrated by a reasonable showing of economic harm to a  
27 taxpayer if the information specified under this subsection is  
28 disclosed. The waiver under this subsection (~~(7)~~) (8)(b) (i) only  
29 applies to the new tax preferences provided in chapter 13, Laws of  
30 2013 2nd sp. sess.

31 (ii) The amount of (~~the tax preference claimed by a taxpayer~~)  
32 tax savings by a taxpayer for any new tax preference during a  
33 calendar year is confidential under RCW 82.32.330 and may not be  
34 disclosed under this subsection if the amount for the calendar year  
35 is less than (~~ten thousand dollars~~) \$10,000.

36 (c) In lieu of the disclosure and waiver requirements under this  
37 subsection, the requirements under RCW 82.32.534 apply to any tax  
38 preference that requires a tax performance report.

39 (~~(8)~~) (9) If a new tax preference does not include the  
40 information required under subsections (2) through (4) of this

1 section, the joint legislative audit and review committee is not  
2 required to perform a tax preference review under chapter 43.136 RCW,  
3 and it is legislatively presumed that it is the intent of the  
4 legislature to allow the new tax preference to expire upon its  
5 scheduled expiration date.

6 ~~((9))~~ (10) For the purposes of this section, "tax preference"  
7 and "new tax preference" have the same meaning as provided in RCW  
8 82.32.805.

9 ~~((10))~~ (11) The provisions of this section do not apply to the  
10 extent that legislation creating a new tax preference provides an  
11 exemption, in whole or in part, from this section, whether or not  
12 such exemption is codified.

13 **Sec. 502.** RCW 82.32.534 and 2017 c 135 s 1 are each amended to  
14 read as follows:

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

21 (ii) If the tax preference is a deferral of tax, the first annual  
22 tax performance report must be filed by May 31st of the calendar year  
23 following the calendar year in which the investment project is  
24 certified by the department as operationally complete, and an annual  
25 tax performance report must be filed by May 31st of each of the seven  
26 succeeding calendar years.

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

29 (b) The report must include information detailing employment and  
30 wages for employment positions in Washington for the year that the  
31 tax preference was claimed. However, persons engaged in manufacturing  
32 commercial airplanes or components of such airplanes may report  
33 employment, wage, and benefit information per job at the  
34 manufacturing site for the year that the tax preference was claimed.  
35 The report must not include names of employees. The report must also  
36 detail employment by the total number of full-time, part-time, and  
37 temporary positions for the year that the tax preference was claimed.  
38 In lieu of reporting employment and wage data required under this  
39 subsection, taxpayers may instead opt to allow the employment

1 security department to release the same employment and wage  
2 information from unemployment insurance records to the department and  
3 the joint legislative audit and review committee. This option is  
4 intended to reduce the reporting burden for taxpayers, and each  
5 taxpayer electing to use this option must affirm that election in  
6 accordance with procedures approved by the employment security  
7 department.

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

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

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

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

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

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

38 (i) (~~Thirty-five~~) 35 percent of the amount of the tax  
39 preference claimed for the previous calendar year to be immediately  
40 due and payable;



1 (ii) An additional (~~fifteen~~) 15 percent of the amount of the  
2 tax preference claimed for the previous calendar year to be  
3 immediately due and payable if the person has previously been  
4 assessed under this subsection (4) for failure to submit a report  
5 under this section for the same tax preference; and

6 (iii) If the tax preference is a deferral of tax, the amount  
7 immediately due under this subsection is (~~twelve and one-half~~) 12.5  
8 percent of the deferred tax. If the economic benefits of the deferral  
9 are passed to a lessee, the lessee is responsible for payment to the  
10 extent the lessee has received the economic benefit.

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

13 (5) The department must use the information from this section to  
14 prepare summary descriptive statistics by category. No fewer than  
15 three taxpayers may be included in any category. The department must  
16 report these statistics to the legislature each year by December  
17 31st.

18 (6) For the purposes of this section:

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

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

## 24 Part VI

### 25 Updating and Modernizing the Department of Revenue Tax Exemption 26 Report

27 **Sec. 601.** RCW 43.06.400 and 2013 c 225 s 605 are each amended to  
28 read as follows:

29 (1) (~~Beginning~~) Except as otherwise provided in this section,  
30 beginning in January (~~(1984)~~) 2025, and in January of every  
31 (~~fourth~~) second year thereafter, the department of revenue must  
32 submit to the legislature prior to the regular session a listing of  
33 the amount of reduction for the current and next biennium in the  
34 revenues of the state or the revenues of local government collected  
35 by the state as a result of tax exemptions. The listing must include  
36 an estimate of the revenue lost from the tax exemption, the purpose  
37 of the tax exemption, the persons, organizations, or parts of the  
38 population which benefit from the tax exemption, and whether or not

1 the tax exemption conflicts with another state program. The listing  
2 must include but not be limited to the following revenue sources:

3 (a) Real and personal property tax exemptions, deferrals, and  
4 special valuation programs under Title 84 RCW;

5 (b) Business and occupation tax exemptions, deductions, and  
6 credits under chapter 82.04 RCW;

7 (c) Retail sales and use tax exemptions under chapters 82.08,  
8 82.12, and 82.14 RCW;

9 (d) Public utility tax exemptions and deductions under chapter  
10 82.16 RCW;

11 (e) Food fish and shellfish tax exemptions under chapter 82.27  
12 RCW;

13 (f) Leasehold excise tax exemptions under chapter 82.29A RCW;

14 (g) Motor vehicle and special fuel tax exemptions and refunds  
15 under chapter 82.38 RCW;

16 (h) Aircraft fuel tax exemptions under chapter 82.42 RCW;

17 (i) Motor vehicle excise tax exclusions under chapter 82.44 RCW;  
18 and

19 (j) Insurance premiums tax exemptions under chapter 48.14 RCW.

20 (2) The department of revenue must prepare the listing required  
21 by this section with the assistance of any other agencies or  
22 departments as may be required.

23 (3) The department of revenue must present the listing to the  
24 ways and means committees of each house in public hearings.

25 (4) Beginning in January ((1984)) 2026, and every ((four)) two  
26 years thereafter the governor is requested to review the report from  
27 the department of revenue and may submit recommendations to the  
28 legislature with respect to the repeal or modification of any tax  
29 exemption. The ways and means committees of each house and the  
30 appropriate standing committee of each house must hold public  
31 hearings and take appropriate action on the recommendations submitted  
32 by the governor.

33 ((As used in this section, "tax exemption" means an  
34 exemption, exclusion, or deduction from the base of a tax; a credit  
35 against a tax; a deferral of a tax; or a preferential tax rate.

36 ~~((6) For purposes of the listing due in January 2012, the  
37 department of revenue does not have to prepare or update the listing  
38 with respect to any tax exemption that would not be likely to  
39 increase state revenue if the exemption was repealed or otherwise~~

1 eliminated.)) The January 2026 listing and every subsequent listing  
2 must include the following additional sections:

3 (a) A section with the estimated effective tax rate for each  
4 industry. In addition, an estimate for each industry of employment  
5 levels, major taxes paid per employee within each industry, and the  
6 industry's average wage;

7 (b) A section that shows state general fund collections as a  
8 percentage of state gross domestic product and state personal income;

9 (c) A section that provides a summary of the transparency and  
10 accountability requirements under RCW 82.32.805 and 82.32.808; and

11 (d) The joint legislative audit and review committee's  
12 recommendation for the tax preference, along with the citizen's  
13 commission recommendation, for the most recent analysis of the tax  
14 preference, if a review has been completed.

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

17 (a) "Effective tax rate" means the sum of Washington's major  
18 taxes paid within each industry divided by the reported taxable  
19 income for each industry.

20 (b) "Industry" means the North American industry classification  
21 system code identified at the three-digit level.

22 (c) "Major taxes" means the following state taxes: Business and  
23 occupation taxes, property taxes, estimated sales taxes, public  
24 utility taxes, unemployment insurance contributions, and workers'  
25 compensation premiums.

26 (d) "Taxable income" means the taxable amount reported for  
27 business and occupation taxes under chapter 82.04 RCW and public  
28 utility taxes under chapter 82.16 RCW. "Taxable income" does not  
29 include any amount for which a credit is allowed under RCW 82.04.440.

30 (e) "Tax exemption" means an exemption, exclusion, or deduction  
31 from the base of a tax, a credit against a tax, a deferral of a tax,  
32 or a preferential tax rate.

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