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**SENATE BILL 5422**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Braun, Holy, and Wilson, L.

Read first time 02/04/21. Referred to Committee on Ways & Means.

1 AN ACT Relating to excise tax reform to preserve aerospace and  
2 other manufacturing jobs in Washington; amending RCW 82.04.240,  
3 82.04.2404, 82.04.260, 82.04.2909, 82.04.294, 82.04.280, 82.04.050,  
4 and 82.32.790; amending 2020 c 80 s 62 (uncodified); creating a new  
5 section; repealing 2017 3rd sp.s. c 37 s 518, 2017 c 135 s 9, 2010 c  
6 114 s 104, and 2003 c 149 s 3; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the  
9 manufacturing industry in Washington is an important source of jobs  
10 that pay significantly more than the average state wage. The  
11 legislature also finds that even prior to the coronavirus pandemic,  
12 the manufacturing industry had lost more than 43,000 jobs during the  
13 21st century, while other leading Washington industries have  
14 collectively added hundreds of thousands of jobs. The legislature  
15 further finds that the coronavirus pandemic has exposed the  
16 detriments of limited manufacturing capacity at times when the people  
17 need a reliable supply of basic core products and goods.

18 It is the intent of the legislature to encourage a resurgence of  
19 manufacturing capacity in Washington and the creation of family-wage  
20 jobs by reducing the tax burden on the manufacturing industry. It is  
21 intended that this act will not only enhance the security of the

1 public by promoting self-sufficiency, but also draw new industries to  
2 Washington. It is the further intent of this act to offset the  
3 reduction in state revenue resulting from this tax relief by  
4 expanding the sales tax base to apply to legal services.

5 **Sec. 2.** RCW 82.04.240 and 2004 c 24 s 4 are each amended to read  
6 as follows:

7 Upon every person engaging within this state in business as a  
8 manufacturer or processor for hire, except persons taxable as  
9 manufacturers or processors for hire under other provisions of this  
10 chapter; as to such persons the amount of the tax with respect to  
11 such business shall be equal to the value of the products, including  
12 by-products, manufactured or processed, multiplied by the rate of  
13 ~~((0.484))~~ 0.00 percent.

14 The measure of the tax is the value of the products, including  
15 by-products, so manufactured regardless of the place of sale or the  
16 fact that deliveries may be made to points outside the state.

17 **Sec. 3.** RCW 82.04.2404 and 2017 3rd sp.s. c 37 s 503 are each  
18 amended to read as follows:

19 (1) Upon every person engaging within this state in the business  
20 of manufacturing or processing for hire semiconductor materials, as  
21 to such persons the amount of tax with respect to such business is,  
22 in the case of manufacturers, equal to the value of the product  
23 manufactured, or, in the case of processors for hire, equal to the  
24 gross income of the business, multiplied by the rate of ~~((0.275))~~  
25 0.00 percent.

26 (2) For the purposes of this section "semiconductor materials"  
27 means silicon crystals, silicon ingots, raw polished semiconductor  
28 wafers, and compound semiconductor wafers.

29 ~~((A person reporting under the tax rate provided in this  
30 section must file a complete annual tax performance report with the  
31 department under RCW 82.32.534.~~

32 ~~(4) Any person who has claimed the preferential tax rate under  
33 this section must reimburse the department for fifty percent of the  
34 amount of the tax preference under this section, if:~~

35 ~~(a) The number of persons employed by the person claiming the tax  
36 preference is less than ninety percent of the person's three-year  
37 employment average for the three years immediately preceding the year  
38 in which the preferential tax rate is claimed; or~~

1 ~~(b) The person is subject to a review under section 501(4)(a),~~  
2 ~~chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet~~  
3 ~~performance criteria in section 501(4)(a), chapter 37, Laws of 2017~~  
4 ~~3rd sp. sess.~~

5 ~~(5))~~ This section expires December 1, 2028.

6 **Sec. 4.** RCW 82.04.260 and 2020 c 165 s 3 are each amended to  
7 read as follows:

8 (1) Upon every person engaging within this state in the business  
9 of manufacturing:

10 (a) Wheat into flour, barley into pearl barley, soybeans into  
11 soybean oil, canola into canola oil, canola meal, or canola by-  
12 products, or sunflower seeds into sunflower oil; as to such persons  
13 the amount of tax with respect to such business is equal to the value  
14 of the flour, pearl barley, oil, canola meal, or canola by-product  
15 manufactured, multiplied by the rate of ~~((0.138))~~ 0.00 percent;

16 (b) Beginning July 1, 2025, seafood products that remain in a  
17 raw, raw frozen, or raw salted state at the completion of the  
18 manufacturing by that person; or selling manufactured seafood  
19 products that remain in a raw, raw frozen, or raw salted state at the  
20 completion of the manufacturing, to purchasers who transport in the  
21 ordinary course of business the goods out of this state; as to such  
22 persons the amount of tax with respect to such business is equal to  
23 the value of the products manufactured multiplied by the rate of 0.00  
24 percent or the gross proceeds derived from such sales, multiplied by  
25 the rate of 0.138 percent. Sellers must keep and preserve records for  
26 the period required by RCW 82.32.070 establishing that the goods were  
27 transported by the purchaser in the ordinary course of business out  
28 of this state;

29 (c)(i) Except as provided otherwise in (c)(iii) of this  
30 subsection, from July 1, 2025, until January 1, 2036, dairy products;  
31 or selling dairy products that the person has manufactured to  
32 purchasers who either transport in the ordinary course of business  
33 the goods out of state or purchasers who use such dairy products as  
34 an ingredient or component in the manufacturing of a dairy product;  
35 as to such persons the tax imposed is equal to the value of the  
36 products manufactured multiplied by the rate of 0.00 percent or the  
37 gross proceeds derived from such sales multiplied by the rate of  
38 0.138 percent. Sellers must keep and preserve records for the period  
39 required by RCW 82.32.070 establishing that the goods were

1 transported by the purchaser in the ordinary course of business out  
2 of this state or sold to a manufacturer for use as an ingredient or  
3 component in the manufacturing of a dairy product.

4 (ii) For the purposes of this subsection (1)(c), "dairy products"  
5 means:

6 (A) Products, not including any marijuana-infused product, that  
7 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,  
8 parts 131, 133, and 135, including by-products from the manufacturing  
9 of the dairy products, such as whey and casein; and

10 (B) Products comprised of not less than (~~seventy~~) 70 percent  
11 dairy products that qualify under (c)(ii)(A) of this subsection,  
12 measured by weight or volume.

13 (iii) The preferential tax rate provided to taxpayers under this  
14 subsection (1)(c) does not apply to sales of dairy products on or  
15 after July 1, 2023, where a dairy product is used by the purchaser as  
16 an ingredient or component in the manufacturing in Washington of a  
17 dairy product;

18 (d)(i) Beginning July 1, 2025, fruits or vegetables by canning,  
19 preserving, freezing, processing, or dehydrating fresh fruits or  
20 vegetables, or selling at wholesale fruits or vegetables manufactured  
21 by the seller by canning, preserving, freezing, processing, or  
22 dehydrating fresh fruits or vegetables and sold to purchasers who  
23 transport in the ordinary course of business the goods out of this  
24 state; as to such persons the amount of tax with respect to such  
25 business is equal to the value of the products manufactured  
26 multiplied by the rate of 0.00 percent or the gross proceeds derived  
27 from such sales multiplied by the rate of 0.138 percent. Sellers must  
28 keep and preserve records for the period required by RCW 82.32.070  
29 establishing that the goods were transported by the purchaser in the  
30 ordinary course of business out of this state.

31 (ii) For purposes of this subsection (1)(d), "fruits" and  
32 "vegetables" do not include marijuana, useable marijuana, or  
33 marijuana-infused products; and

34 (e) Wood biomass fuel; as to such persons the amount of tax with  
35 respect to the business is equal to the value of wood biomass fuel  
36 manufactured, multiplied by the rate of (~~0.138~~) 0.00 percent. For  
37 the purposes of this section, "wood biomass fuel" means a liquid or  
38 gaseous fuel that is produced from lignocellulosic feedstocks,  
39 including wood, forest, or field residue and dedicated energy crops,

1 and that does not include wood treated with chemical preservations  
2 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

3 (2) Upon every person engaging within this state in the business  
4 of splitting or processing dried peas; as to such persons the amount  
5 of tax with respect to such business is equal to the value of the  
6 peas split or processed, multiplied by the rate of (~~(0.138)~~) 0.00  
7 percent.

8 (3) Upon every nonprofit corporation and nonprofit association  
9 engaging within this state in research and development, as to such  
10 corporations and associations, the amount of tax with respect to such  
11 activities is equal to the gross income derived from such activities  
12 multiplied by the rate of 0.484 percent.

13 (4) Upon every person engaging within this state in the business  
14 of slaughtering, breaking and/or processing perishable meat products  
15 and/or selling the same at wholesale only and not at retail; as to  
16 such persons the tax imposed is equal to the gross proceeds derived  
17 from such sales multiplied by the rate of (~~(0.138)~~) 0.00 percent.

18 (5) (a) Upon every person engaging within this state in the  
19 business of acting as a travel agent or tour operator and whose  
20 annual taxable amount for the prior calendar year was (~~(two hundred~~  
21 ~~fifty thousand dollars)~~) \$250,000 or less; as to such persons the  
22 amount of the tax with respect to such activities is equal to the  
23 gross income derived from such activities multiplied by the rate of  
24 0.275 percent.

25 (b) Upon every person engaging within this state in the business  
26 of acting as a travel agent or tour operator and whose annual taxable  
27 amount for the calendar year was more than (~~(two hundred fifty~~  
28 ~~thousand dollars)~~) \$250,000; as to such persons the amount of the tax  
29 with respect to such activities is equal to the gross income derived  
30 from such activities multiplied by the rate of 0.275 percent through  
31 June 30, 2019, and 0.9 percent beginning July 1, 2019.

32 (6) Upon every person engaging within this state in business as  
33 an international steamship agent, international customs house broker,  
34 international freight forwarder, vessel and/or cargo charter broker  
35 in foreign commerce, and/or international air cargo agent; as to such  
36 persons the amount of the tax with respect to only international  
37 activities is equal to the gross income derived from such activities  
38 multiplied by the rate of 0.275 percent.

39 (7) Upon every person engaging within this state in the business  
40 of stevedoring and associated activities pertinent to the movement of

1 goods and commodities in waterborne interstate or foreign commerce;  
2 as to such persons the amount of tax with respect to such business is  
3 equal to the gross proceeds derived from such activities multiplied  
4 by the rate of 0.275 percent. Persons subject to taxation under this  
5 subsection are exempt from payment of taxes imposed by chapter 82.16  
6 RCW for that portion of their business subject to taxation under this  
7 subsection. Stevedoring and associated activities pertinent to the  
8 conduct of goods and commodities in waterborne interstate or foreign  
9 commerce are defined as all activities of a labor, service or  
10 transportation nature whereby cargo may be loaded or unloaded to or  
11 from vessels or barges, passing over, onto or under a wharf, pier, or  
12 similar structure; cargo may be moved to a warehouse or similar  
13 holding or storage yard or area to await further movement in import  
14 or export or may move to a consolidation freight station and be  
15 stuffed, unstuffed, containerized, separated or otherwise segregated  
16 or aggregated for delivery or loaded on any mode of transportation  
17 for delivery to its consignee. Specific activities included in this  
18 definition are: Wharfage, handling, loading, unloading, moving of  
19 cargo to a convenient place of delivery to the consignee or a  
20 convenient place for further movement to export mode; documentation  
21 services in connection with the receipt, delivery, checking, care,  
22 custody and control of cargo required in the transfer of cargo;  
23 imported automobile handling prior to delivery to consignee; terminal  
24 stevedoring and incidental vessel services, including but not limited  
25 to plugging and unplugging refrigerator service to containers,  
26 trailers, and other refrigerated cargo receptacles, and securing ship  
27 hatch covers.

28 (8) (a) Upon every person engaging within this state in the  
29 business of disposing of low-level waste, as defined in RCW  
30 (~~(43.145.010)~~) 70A.380.010; as to such persons the amount of the tax  
31 with respect to such business is equal to the gross income of the  
32 business, excluding any fees imposed under chapter (~~(43.200)~~) 70A.384  
33 RCW, multiplied by the rate of 3.3 percent.

34 (b) If the gross income of the taxpayer is attributable to  
35 activities both within and without this state, the gross income  
36 attributable to this state must be determined in accordance with the  
37 methods of apportionment required under RCW 82.04.460.

38 (9) Upon every person engaging within this state as an insurance  
39 producer or title insurance agent licensed under chapter 48.17 RCW or  
40 a surplus line broker licensed under chapter 48.15 RCW; as to such

1 persons, the amount of the tax with respect to such licensed  
2 activities is equal to the gross income of such business multiplied  
3 by the rate of 0.484 percent.

4 (10) Upon every person engaging within this state in business as  
5 a hospital, as defined in chapter 70.41 RCW, that is operated as a  
6 nonprofit corporation or by the state or any of its political  
7 subdivisions, as to such persons, the amount of tax with respect to  
8 such activities is equal to the gross income of the business  
9 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
10 percent thereafter.

11 (11)(a) Beginning October 1, 2005, upon every person engaging  
12 within this state in the business of manufacturing commercial  
13 airplanes, or components of such airplanes, or making sales, at  
14 retail or wholesale, of commercial airplanes or components of such  
15 airplanes, manufactured by the seller, as to such persons the amount  
16 of tax with respect to such business is, in the case of  
17 manufacturers, equal to the value of the product manufactured and the  
18 gross proceeds of sales of the product manufactured, or in the case  
19 of processors for hire, equal to the gross income of the business,  
20 multiplied by the rate of:

21 (i) 0.4235 percent from October 1, 2005, through June 30, 2007;

22 (ii) 0.2904 percent beginning July 1, 2007, through March 31,  
23 2020; (~~and~~)

24 (iii) Beginning April 1, 2020, 0.484 percent, subject to any  
25 reduction required under (e) of this subsection (11). The tax rate in  
26 this subsection (11)(a)(iii) applies to (~~all~~) retailing and  
27 wholesaling business activities described in this subsection (11)(a);  
28 and

29 (iv) Beginning July 1, 2021, 0.00 percent for manufacturing  
30 activities described in this subsection (11)(a).

31 (b) Beginning July 1, 2008, upon every person who is not eligible  
32 to report under the provisions of (a) of this subsection (11) and is  
33 engaging within this state in the business of manufacturing tooling  
34 specifically designed for use in manufacturing commercial airplanes  
35 or components of such airplanes, or making sales, at retail or  
36 wholesale, of such tooling manufactured by the seller, as to such  
37 persons the amount of tax with respect to such business is, in the  
38 case of manufacturers, equal to the value of the product manufactured  
39 and the gross proceeds of sales of the product manufactured, or in

1 the case of processors for hire, be equal to the gross income of the  
2 business, multiplied by the rate of:

3 (i) 0.2904 percent through March 31, 2020; and

4 (ii) Beginning April 1, 2020, the following rates, which are  
5 subject to any reduction required under (e) of this subsection (11):

6 (A) The generally applicable rate under (~~RCW 82.04.250(1)~~) this  
7 chapter on the business of making retail or wholesale sales of  
8 tooling specifically designed for use in manufacturing commercial  
9 airplanes or components of such airplanes; and

10 (B) (~~0.484~~) 0.00 percent on all other business activities  
11 described in this subsection (11) (b) beginning July 1, 2021.

12 (c) For the purposes of this subsection (11), "commercial  
13 airplane" and "component" have the same meanings as provided in RCW  
14 82.32.550.

15 (d) (i) In addition to all other requirements under this title, a  
16 person reporting (~~under the tax rate~~) a preferential tax rate for  
17 retailing or wholesaling activities provided in this subsection (11)  
18 must file a complete annual tax performance report with the  
19 department under RCW 82.32.534. However, this requirement does not  
20 apply to persons reporting under the tax rate in (a) (iii) of this  
21 subsection (11), so long as that rate remains 0.484 percent, or under  
22 any of the tax rates in (b) (ii) (A) and (B) of this subsection (11),  
23 so long as those tax rates remain the rate imposed pursuant to RCW  
24 82.04.250(1) and 0.484 percent, respectively.

25 (ii) Nothing in (d) (i) of this subsection (11) may be construed  
26 as affecting the obligation of a person reporting under a tax rate  
27 provided in this subsection (11) to file a complete annual tax  
28 performance report with the department under RCW 82.32.534: (A)  
29 Pursuant to another provision of this title as a result of claiming a  
30 tax credit or exemption; or (B) pursuant to (d) (i) of this subsection  
31 (11) as a result of claiming the tax rates in (a) (ii) or (b) (i) of  
32 this subsection (11) for periods ending before April 1, 2020.

33 (e) (i) After March 31, 2021, the tax rates under (a) (iii) and  
34 (b) (ii) (A) of this subsection (11) must be reduced to 0.357 percent  
35 for retailing and wholesaling activities provided the conditions in  
36 RCW 82.04.2602 are met. The effective date of the rates authorized  
37 under this subsection (11) (e) must occur on the first day of the next  
38 calendar quarter that is at least (~~sixty~~) 60 days after the  
39 department receives the last of the two written notices pursuant to  
40 RCW 82.04.2602 (3) and (4).



1 (ii) Both a significant commercial airplane manufacturer  
2 separately and the rest of the aerospace industry as a whole,  
3 receiving the rate of 0.357 percent under this subsection (11)(e) are  
4 subject to the aerospace apprenticeship utilization rates required  
5 under RCW 49.04.220 by April 1, 2026, or five years after the  
6 effective date of the 0.357 percent rate authorized under this  
7 subsection (11)(e), whichever is later, as determined by the  
8 department of labor and industries.

9 (iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply  
10 to this subsection (11)(e).

11 (f)(i) Except as provided in (f)(ii) of this subsection (11),  
12 this subsection (11) does not apply on and after July 1, 2040.

13 (ii) With respect to (~~the manufacturing of commercial airplanes~~  
14 ~~or~~) making sales, at retail or wholesale, of commercial airplanes,  
15 this subsection (11) does not apply on and after July 1st of the year  
16 in which the department makes a determination that any final assembly  
17 or wing assembly of any version or variant of a commercial airplane  
18 that is the basis of a siting of a significant commercial airplane  
19 manufacturing program in the state under RCW 82.32.850 has been sited  
20 outside the state of Washington. This subsection (11)(f)(ii) only  
21 applies to the (~~manufacturing or~~) sale of commercial airplanes that  
22 are the basis of a siting of a significant commercial airplane  
23 manufacturing program in the state under RCW 82.32.850. This  
24 subsection (11)(f)(ii) continues to apply during the time that a  
25 person is subject to the tax rate in (a)(iii) of this subsection  
26 (11).

27 (g) For the purposes of this subsection, "a significant  
28 commercial airplane manufacturer" means a manufacturer of commercial  
29 airplanes with at least (~~fifty thousand~~) 50,000 full-time employees  
30 in Washington as of January 1, 2021.

31 (12)(a) Until July 1, 2045, upon every person engaging within  
32 this state in the business of extracting timber or extracting for  
33 hire timber; as to such persons the amount of tax with respect to the  
34 business is, in the case of extractors, equal to the value of  
35 products, including by-products, extracted, or in the case of  
36 extractors for hire, equal to the gross income of the business,  
37 multiplied by the rate of 0.4235 percent from July 1, 2006, through  
38 June 30, 2007, and (~~0.2904~~) 0.00 percent from July 1, 2007, through  
39 June 30, 2045.

1 (b) Until July 1, 2045, upon every person engaging within this  
2 state in the business of manufacturing or processing for hire: (i)  
3 Timber into timber products or wood products; (ii) timber products  
4 into other timber products or wood products; or (iii) products  
5 defined in RCW 19.27.570(1); as to such persons the amount of the tax  
6 with respect to the business is, in the case of manufacturers, equal  
7 to the value of products, including by-products, manufactured, or in  
8 the case of processors for hire, equal to the gross income of the  
9 business, multiplied by the rate of 0.4235 percent from July 1, 2006,  
10 through June 30, 2007, and (~~(0.2904)~~) 0.00 percent from July 1, 2007,  
11 through June 30, 2045.

12 (c) Until July 1, 2045, upon every person engaging within this  
13 state in the business of selling at wholesale: (i) Timber extracted  
14 by that person; (ii) timber products manufactured by that person from  
15 timber or other timber products; (iii) wood products manufactured by  
16 that person from timber or timber products; or (iv) products defined  
17 in RCW 19.27.570(1) manufactured by that person; as to such persons  
18 the amount of the tax with respect to the business is equal to the  
19 gross proceeds of sales of the timber, timber products, wood  
20 products, or products defined in RCW 19.27.570(1) multiplied by the  
21 rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and  
22 (~~(0.2904)~~) 0.00 percent from July 1, 2007, through June 30, 2045.

23 (d) Until July 1, 2045, upon every person engaging within this  
24 state in the business of selling standing timber; as to such persons  
25 the amount of the tax with respect to the business is equal to the  
26 gross income of the business multiplied by the rate of 0.2904  
27 percent. For purposes of this subsection (12)(d), "selling standing  
28 timber" means the sale of timber apart from the land, where the buyer  
29 is required to sever the timber within (~~(thirty)~~) 30 months from the  
30 date of the original contract, regardless of the method of payment  
31 for the timber and whether title to the timber transfers before,  
32 upon, or after severance.

33 (e) For purposes of this subsection, the following definitions  
34 apply:

35 (i) "Biocomposite surface products" means surface material  
36 products containing, by weight or volume, more than (~~(fifty)~~) 50  
37 percent recycled paper and that also use nonpetroleum-based phenolic  
38 resin as a bonding agent.

39 (ii) "Paper and paper products" means products made of interwoven  
40 cellulosic fibers held together largely by hydrogen bonding. "Paper

1 and paper products" includes newsprint; office, printing, fine, and  
2 pressure-sensitive papers; paper napkins, towels, and toilet tissue;  
3 kraft bag, construction, and other kraft industrial papers;  
4 paperboard, liquid packaging containers, containerboard, corrugated,  
5 and solid-fiber containers including linerboard and corrugated  
6 medium; and related types of cellulosic products containing  
7 primarily, by weight or volume, cellulosic materials. "Paper and  
8 paper products" does not include books, newspapers, magazines,  
9 periodicals, and other printed publications, advertising materials,  
10 calendars, and similar types of printed materials.

11 (iii) "Recycled paper" means paper and paper products having  
12 fifty percent or more of their fiber content that comes from  
13 postconsumer waste. For purposes of this subsection (12)(e)(iii),  
14 "postconsumer waste" means a finished material that would normally be  
15 disposed of as solid waste, having completed its life cycle as a  
16 consumer item.

17 (iv) "Timber" means forest trees, standing or down, on privately  
18 or publicly owned land. "Timber" does not include Christmas trees  
19 that are cultivated by agricultural methods or short-rotation  
20 hardwoods as defined in RCW 84.33.035.

21 (v) "Timber products" means:

22 (A) Logs, wood chips, sawdust, wood waste, and similar products  
23 obtained wholly from the processing of timber, short-rotation  
24 hardwoods as defined in RCW 84.33.035, or both;

25 (B) Pulp, including market pulp and pulp derived from recovered  
26 paper or paper products; and

27 (C) Recycled paper, but only when used in the manufacture of  
28 biocomposite surface products.

29 (vi) "Wood products" means paper and paper products; dimensional  
30 lumber; engineered wood products such as particleboard, oriented  
31 strand board, medium density fiberboard, and plywood; wood doors;  
32 wood windows; and biocomposite surface products.

33 (f) Except for small harvesters as defined in RCW 84.33.035, a  
34 person reporting under the tax rate provided in this subsection (12)  
35 must file a complete annual tax performance report with the  
36 department under RCW 82.32.534.

37 (g) Nothing in this subsection (12) may be construed to affect  
38 the taxation of any activity defined as a retail sale in RCW  
39 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW  
40 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

1 (13) Upon every person engaging within this state in inspecting,  
2 testing, labeling, and storing canned salmon owned by another person,  
3 as to such persons, the amount of tax with respect to such activities  
4 is equal to the gross income derived from such activities multiplied  
5 by the rate of 0.484 percent.

6 (14)(a) Upon every person engaging within this state in the  
7 business of printing a newspaper, publishing a newspaper, or both,  
8 the amount of tax on such business is equal to the gross income of  
9 the business multiplied by the rate of 0.35 percent until July 1,  
10 2024, and 0.484 percent thereafter.

11 (b) A person reporting under the tax rate provided in this  
12 subsection (14) must file a complete annual tax performance report  
13 with the department under RCW 82.32.534.

14 **Sec. 5.** RCW 82.04.2909 and 2017 c 135 s 12 are each amended to  
15 read as follows:

16 (1) Upon every person who is an aluminum smelter engaging within  
17 this state in the business of manufacturing aluminum; as to such  
18 persons the amount of tax with respect to such business is, in the  
19 case of manufacturers, equal to the value of the product  
20 manufactured, or in the case of processors for hire, equal to the  
21 gross income of the business, multiplied by the rate of (~~(.2904)~~)  
22 0.00 percent.

23 (2) Upon every person who is an aluminum smelter engaging within  
24 this state in the business of making sales at wholesale of aluminum  
25 manufactured by that person, as to such persons the amount of tax  
26 with respect to such business is equal to the gross proceeds of sales  
27 of the aluminum multiplied by the rate of .2904 percent.

28 (3) A person reporting under the tax rate provided in subsection  
29 (2) of this section must file a complete annual tax performance  
30 report with the department under RCW 82.32.534.

31 (4) This section expires January 1, 2027.

32 **Sec. 6.** RCW 82.04.294 and 2017 3rd sp.s. c 37 s 403 are each  
33 amended to read as follows:

34 (1) Upon every person engaging within this state in the business  
35 of manufacturing solar energy systems using photovoltaic modules or  
36 stirling converters, or of manufacturing solar grade silicon, silicon  
37 solar wafers, silicon solar cells, thin film solar devices, or  
38 compound semiconductor solar wafers to be used exclusively in

1 components of such systems; as to such persons the amount of tax with  
2 respect to such business is, in the case of manufacturers, equal to  
3 the value of the product manufactured, or in the case of processors  
4 for hire, equal to the gross income of the business, multiplied by  
5 the rate of (~~0.275~~) 0.00 percent.

6 (2) Upon every person engaging within this state in the business  
7 of making sales at wholesale of solar energy systems using  
8 photovoltaic modules or stirling converters, or of solar grade  
9 silicon, silicon solar wafers, silicon solar cells, thin film solar  
10 devices, or compound semiconductor solar wafers to be used  
11 exclusively in components of such systems, manufactured by that  
12 person; as to such persons the amount of tax with respect to such  
13 business is equal to the gross proceeds of sales of the solar energy  
14 systems using photovoltaic modules or stirling converters, or of the  
15 solar grade silicon to be used exclusively in components of such  
16 systems, multiplied by the rate of 0.275 percent.

17 (3) Silicon solar wafers, silicon solar cells, thin film solar  
18 devices, solar grade silicon, or compound semiconductor solar wafers  
19 are "semiconductor materials" for the purposes of RCW 82.08.9651 and  
20 82.12.9651.

21 (4) The definitions in this subsection apply throughout this  
22 section.

23 (a) "Compound semiconductor solar wafers" means a semiconductor  
24 solar wafer composed of elements from two or more different groups of  
25 the periodic table.

26 (b) "Module" means the smallest nondivisible self-contained  
27 physical structure housing interconnected photovoltaic cells and  
28 providing a single direct current electrical output.

29 (c) "Photovoltaic cell" means a device that converts light  
30 directly into electricity without moving parts.

31 (d) "Silicon solar cells" means a photovoltaic cell manufactured  
32 from a silicon solar wafer.

33 (e) "Silicon solar wafers" means a silicon wafer manufactured for  
34 solar conversion purposes.

35 (f) "Solar energy system" means any device or combination of  
36 devices or elements that rely upon direct sunlight as an energy  
37 source for use in the generation of electricity.

38 (g) "Solar grade silicon" means high-purity silicon used  
39 exclusively in components of solar energy systems using photovoltaic

1 modules to capture direct sunlight. "Solar grade silicon" does not  
2 include silicon used in semiconductors.

3 (h) "Stirling converter" means a device that produces electricity  
4 by converting heat from a solar source utilizing a stirling engine.

5 (i) "Thin film solar devices" means a nonparticipating substrate  
6 on which various semiconducting materials are deposited to produce a  
7 photovoltaic cell that is used to generate electricity.

8 (5) A person reporting under the tax rate provided in subsection  
9 (2) of this section must file a complete annual tax performance  
10 report with the department under RCW 82.32.534.

11 (6) This section expires July 1, 2027.

12 **Sec. 7.** RCW 82.04.280 and 2019 c 449 s 1 are each amended to  
13 read as follows:

14 (1) Upon every person engaging within this state in the business  
15 of: (a) Printing materials other than newspapers, and of publishing  
16 periodicals or magazines; (b) building, repairing or improving any  
17 street, place, road, highway, easement, right-of-way, mass public  
18 transportation terminal or parking facility, bridge, tunnel, or  
19 trestle which is owned by a municipal corporation or political  
20 subdivision of the state or by the United States and which is used or  
21 to be used, primarily for foot or vehicular traffic including mass  
22 transportation vehicles of any kind and including any readjustment,  
23 reconstruction or relocation of the facilities of any public, private  
24 or cooperatively owned utility or railroad in the course of such  
25 building, repairing or improving, the cost of which readjustment,  
26 reconstruction, or relocation, is the responsibility of the public  
27 authority whose street, place, road, highway, easement, right-of-way,  
28 mass public transportation terminal or parking facility, bridge,  
29 tunnel, or trestle is being built, repaired or improved; (c)  
30 extracting for hire (~~(or processing for hire)~~), except persons  
31 taxable as extractors for hire (~~(or processors for hire)~~) under  
32 another section of this chapter; (d) operating a cold storage  
33 warehouse or storage warehouse, but not including the rental of cold  
34 storage lockers; (e) representing and performing services for fire or  
35 casualty insurance companies as an independent resident managing  
36 general agent licensed under the provisions of chapter 48.17 RCW; (f)  
37 radio and television broadcasting, but excluding revenues from  
38 network, national, and regional advertising computed either: (i) As a  
39 standard deduction that the department must publish by rule by

1 September 30, 2020, and by September 30th of every fifth year  
2 thereafter, based on the national average thereof as reported by the  
3 United States census bureau's economic census; or (ii) in lieu  
4 thereof by itemization by the individual broadcasting station, and  
5 excluding that portion of revenue represented by the out-of-state  
6 audience computed as a ratio to the broadcasting station's total  
7 audience as measured by the .5 millivolt/meter signal strength  
8 contour for AM radio, the one millivolt/meter or (~~sixty~~) 60 dBu  
9 signal strength contour for FM radio, the (~~twenty-eight~~) 28 dBu  
10 signal strength contour for television channels two through six, the  
11 (~~thirty-six~~) 36 dBu signal strength contour for television channels  
12 seven through (~~thirteen~~) 13, and the (~~forty-one~~) 41 dBu signal  
13 strength contour for television channels (~~fourteen~~) 14 through  
14 (~~sixty-nine~~) 69 with delivery by wire, satellite, or any other  
15 means, if any; (g) engaging in activities which bring a person within  
16 the definition of consumer contained in RCW 82.04.190(6); as to such  
17 persons, the amount of tax on such business is equal to the gross  
18 income of the business multiplied by the rate of 0.484 percent.

19 (2) For the purposes of this section, the following definitions  
20 apply unless the context clearly requires otherwise.

21 (a) "Cold storage warehouse" means a storage warehouse used to  
22 store fresh and/or frozen perishable fruits or vegetables, meat,  
23 seafood, dairy products, or fowl, or any combination thereof, at a  
24 desired temperature to maintain the quality of the product for  
25 orderly marketing.

26 (b) "Storage warehouse" means a building or structure, or any  
27 part thereof, in which goods, wares, or merchandise are received for  
28 storage for compensation, except field warehouses, fruit warehouses,  
29 fruit packing plants, warehouses licensed under chapter 22.09 RCW,  
30 public garages storing automobiles, railroad freight sheds, docks and  
31 wharves, and "self-storage" or "mini storage" facilities whereby  
32 customers have direct access to individual storage areas by separate  
33 entrance. "Storage warehouse" does not include a building or  
34 structure, or that part of such building or structure, in which an  
35 activity taxable under RCW 82.04.272 is conducted.

36 (c) "Periodical or magazine" means a printed publication, other  
37 than a newspaper, issued regularly at stated intervals at least once  
38 every three months, including any supplement or special edition of  
39 the publication.

1       **Sec. 8.** RCW 82.04.050 and 2020 c 80 s 58 are each amended to  
2 read as follows:

3       (1)(a) "Sale at retail" or "retail sale" means every sale of  
4 tangible personal property (including articles produced, fabricated,  
5 or imprinted) to all persons irrespective of the nature of their  
6 business and including, among others, without limiting the scope  
7 hereof, persons who install, repair, clean, alter, improve,  
8 construct, or decorate real or personal property of or for consumers  
9 other than a sale to a person who:

10       (i) Purchases for the purpose of resale as tangible personal  
11 property in the regular course of business without intervening use by  
12 such person, but a purchase for the purpose of resale by a regional  
13 transit authority under RCW 81.112.300 is not a sale for resale; or

14       (ii) Installs, repairs, cleans, alters, imprints, improves,  
15 constructs, or decorates real or personal property of or for  
16 consumers, if such tangible personal property becomes an ingredient  
17 or component of such real or personal property without intervening  
18 use by such person; or

19       (iii) Purchases for the purpose of consuming the property  
20 purchased in producing for sale as a new article of tangible personal  
21 property or substance, of which such property becomes an ingredient  
22 or component or is a chemical used in processing, when the primary  
23 purpose of such chemical is to create a chemical reaction directly  
24 through contact with an ingredient of a new article being produced  
25 for sale; or

26       (iv) Purchases for the purpose of consuming the property  
27 purchased in producing ferrosilicon which is subsequently used in  
28 producing magnesium for sale, if the primary purpose of such property  
29 is to create a chemical reaction directly through contact with an  
30 ingredient of ferrosilicon; or

31       (v) Purchases for the purpose of providing the property to  
32 consumers as part of competitive telephone service, as defined in RCW  
33 82.04.065; or

34       (vi) Purchases for the purpose of satisfying the person's  
35 obligations under an extended warranty as defined in subsection (7)  
36 of this section, if such tangible personal property replaces or  
37 becomes an ingredient or component of property covered by the  
38 extended warranty without intervening use by such person.

39       (b) The term includes every sale of tangible personal property  
40 that is used or consumed or to be used or consumed in the performance



1 of any activity defined as a "sale at retail" or "retail sale" even  
2 though such property is resold or used as provided in (a)(i) through  
3 (vi) of this subsection following such use.

4 (c) The term also means every sale of tangible personal property  
5 to persons engaged in any business that is taxable under RCW  
6 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

7 (2) The term "sale at retail" or "retail sale" includes the sale  
8 of or charge made for tangible personal property consumed and/or for  
9 labor and services rendered in respect to the following:

10 (a) The installing, repairing, cleaning, altering, imprinting, or  
11 improving of tangible personal property of or for consumers,  
12 including charges made for the mere use of facilities in respect  
13 thereto, but excluding charges made for the use of self-service  
14 laundry facilities, and also excluding sales of laundry service to  
15 nonprofit health care facilities, and excluding services rendered in  
16 respect to live animals, birds and insects;

17 (b) The constructing, repairing, decorating, or improving of new  
18 or existing buildings or other structures under, upon, or above real  
19 property of or for consumers, including the installing or attaching  
20 of any article of tangible personal property therein or thereto,  
21 whether or not such personal property becomes a part of the realty by  
22 virtue of installation, and also includes the sale of services or  
23 charges made for the clearing of land and the moving of earth  
24 excepting the mere leveling of land used in commercial farming or  
25 agriculture;

26 (c) The constructing, repairing, or improving of any structure  
27 upon, above, or under any real property owned by an owner who conveys  
28 the property by title, possession, or any other means to the person  
29 performing such construction, repair, or improvement for the purpose  
30 of performing such construction, repair, or improvement and the  
31 property is then reconveyed by title, possession, or any other means  
32 to the original owner;

33 (d) The cleaning, fumigating, razing, or moving of existing  
34 buildings or structures, but does not include the charge made for  
35 janitorial services; and for purposes of this section the term  
36 "janitorial services" means those cleaning and caretaking services  
37 ordinarily performed by commercial janitor service businesses  
38 including, but not limited to, wall and window washing, floor  
39 cleaning and waxing, and the cleaning in place of rugs, drapes and  
40 upholstery. The term "janitorial services" does not include painting,

1 papering, repairing, furnace or septic tank cleaning, snow removal or  
2 sandblasting;

3 (e) Automobile towing and similar automotive transportation  
4 services, but not in respect to those required to report and pay  
5 taxes under chapter 82.16 RCW;

6 (f) The furnishing of lodging and all other services by a hotel,  
7 rooming house, tourist court, motel, trailer camp, and the granting  
8 of any similar license to use real property, as distinguished from  
9 the renting or leasing of real property, and it is presumed that the  
10 occupancy of real property for a continuous period of one month or  
11 more constitutes a rental or lease of real property and not a mere  
12 license to use or enjoy the same. For the purposes of this  
13 subsection, it is presumed that the sale of and charge made for the  
14 furnishing of lodging for a continuous period of one month or more to  
15 a person is a rental or lease of real property and not a mere license  
16 to enjoy the same;

17 (g) The installing, repairing, altering, or improving of digital  
18 goods for consumers;

19 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)  
20 of this subsection when such sales or charges are for property, labor  
21 and services which are used or consumed in whole or in part by such  
22 persons in the performance of any activity defined as a "sale at  
23 retail" or "retail sale" even though such property, labor and  
24 services may be resold after such use or consumption. Nothing  
25 contained in this subsection may be construed to modify subsection  
26 (1) of this section and nothing contained in subsection (1) of this  
27 section may be construed to modify this subsection.

28 (3) The term "sale at retail" or "retail sale" includes the sale  
29 of or charge made for personal, business, or professional services  
30 including amounts designated as interest, rents, fees, admission, and  
31 other service emoluments however designated, received by persons  
32 engaging in the following business activities:

33 (a) Abstract, title insurance, and escrow services;

34 (b) Credit bureau services;

35 (c) Automobile parking and storage garage services;

36 (d) Landscape maintenance and horticultural services but  
37 excluding (i) horticultural services provided to farmers and (ii)  
38 pruning, trimming, repairing, removing, and clearing of trees and  
39 brush near electric transmission or distribution lines or equipment,  
40 if performed by or at the direction of an electric utility;

1 (e) Service charges associated with tickets to professional  
2 sporting events;

3 (f) The following personal services: Tanning salon services,  
4 tattoo parlor services, steam bath services, turkish bath services,  
5 escort services, and dating services; (~~and~~)

6 (g)(i) Operating an athletic or fitness facility, including all  
7 charges for the use of such a facility or for any associated services  
8 and amenities, except as provided in (g)(ii) of this subsection.

9 (ii) Notwithstanding anything to the contrary in (g)(i) of this  
10 subsection (3), the term "sale at retail" and "retail sale" under  
11 this subsection does not include:

12 (A) Separately stated charges for the use of an athletic or  
13 fitness facility where such use is primarily for a purpose other than  
14 engaging in or receiving instruction in a physical fitness activity;

15 (B) Separately stated charges for the use of a discrete portion  
16 of an athletic or fitness facility, other than a pool, where such  
17 discrete portion of the facility does not by itself meet the  
18 definition of "athletic or fitness facility" in this subsection;

19 (C) Separately stated charges for services, such as advertising,  
20 massage, nutritional consulting, and body composition testing, that  
21 do not require the customer to engage in physical fitness activities  
22 to receive the service. The exclusion in this subsection  
23 (3)(g)(ii)(C) does not apply to personal training services and  
24 instruction in a physical fitness activity;

25 (D) Separately stated charges for physical therapy provided by a  
26 physical therapist, as those terms are defined in RCW 18.74.010, or  
27 occupational therapy provided by an occupational therapy  
28 practitioner, as those terms are defined in RCW 18.59.020, when  
29 performed pursuant to a referral from an authorized health care  
30 practitioner or in consultation with an authorized health care  
31 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an  
32 authorized health care practitioner means a health care practitioner  
33 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A  
34 RCW;

35 (E) Rent or association fees charged by a landlord or residential  
36 association to a tenant or residential owner with access to an  
37 athletic or fitness facility maintained by the landlord or  
38 residential association, unless the rent or fee varies depending on  
39 whether the tenant or owner has access to the facility;

1 (F) Services provided in the regular course of employment by an  
2 employee with access to an athletic or fitness facility maintained by  
3 the employer for use without charge by its employees or their family  
4 members;

5 (G) The provision of access to an athletic or fitness facility by  
6 an educational institution to its students and staff. However,  
7 charges made by an educational institution to its alumni or other  
8 members of the public for the use of any of the educational  
9 institution's athletic or fitness facilities are a retail sale under  
10 this subsection (3)(g). For purposes of this subsection  
11 (3)(g)(ii)(G), "educational institution" has the same meaning as in  
12 RCW 82.04.170;

13 (H) Yoga, chi gong, or martial arts classes, training, or events  
14 held at a community center, park, school gymnasium, college or  
15 university, hospital or other medical facility, private residence, or  
16 any other facility that is not operated within and as part of an  
17 athletic or fitness facility.

18 (iii) Nothing in (g)(ii) of this subsection (3) may be construed  
19 to affect the taxation of sales made by the operator of an athletic  
20 or fitness facility, where such sales are defined as a retail sale  
21 under any provision of this section other than this subsection (3).

22 (iv) For the purposes of this subsection (3)(g), the following  
23 definitions apply:

24 (A) "Athletic or fitness facility" means an indoor or outdoor  
25 facility or portion of a facility that is primarily used for:  
26 Exercise classes; strength and conditioning programs; personal  
27 training services; tennis, racquetball, handball, squash, or  
28 pickleball; or other activities requiring the use of exercise or  
29 strength training equipment, such as treadmills, elliptical machines,  
30 stair climbers, stationary cycles, rowing machines, pilates  
31 equipment, balls, climbing ropes, jump ropes, and weightlifting  
32 equipment.

33 (B) "Martial arts" means any of the various systems of training  
34 for physical combat or self-defense. "Martial arts" includes, but is  
35 not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing,  
36 kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido,  
37 Kendo, tai chi, and mixed martial arts.

38 (C) "Physical fitness activities" means activities that involve  
39 physical exertion for the purpose of improving or maintaining the  
40 general fitness, strength, flexibility, conditioning, or health of

1 the participant. "Physical fitness activities" includes participating  
2 in yoga, chi gong, or martial arts; and

3 (h) Legal services.

4 (4) (a) The term also includes the renting or leasing of tangible  
5 personal property to consumers.

6 (b) The term does not include the renting or leasing of tangible  
7 personal property where the lease or rental is for the purpose of  
8 sublease or subrent.

9 (5) The term also includes the providing of "competitive  
10 telephone service," "telecommunications service," or "ancillary  
11 services," as those terms are defined in RCW 82.04.065, to consumers.

12 (6) (a) The term also includes the sale of prewritten computer  
13 software to a consumer, regardless of the method of delivery to the  
14 end user. For purposes of (a) and (b) of this subsection, the sale of  
15 prewritten computer software includes the sale of or charge made for  
16 a key or an enabling or activation code, where the key or code is  
17 required to activate prewritten computer software and put the  
18 software into use. There is no separate sale of the key or code from  
19 the prewritten computer software, regardless of how the sale may be  
20 characterized by the vendor or by the purchaser.

21 (b) The term "retail sale" does not include the sale of or charge  
22 made for:

23 (i) Custom software; or

24 (ii) The customization of prewritten computer software.

25 (c) (i) The term also includes the charge made to consumers for  
26 the right to access and use prewritten computer software, where  
27 possession of the software is maintained by the seller or a third  
28 party, regardless of whether the charge for the service is on a per  
29 use, per user, per license, subscription, or some other basis.

30 (ii) (A) The service described in (c) (i) of this subsection (6)  
31 includes the right to access and use prewritten computer software to  
32 perform data processing.

33 (B) For purposes of this subsection (6) (c) (ii), "data processing"  
34 means the systematic performance of operations on data to extract the  
35 required information in an appropriate form or to convert the data to  
36 usable information. Data processing includes check processing, image  
37 processing, form processing, survey processing, payroll processing,  
38 claim processing, and similar activities.

39 (7) The term also includes the sale of or charge made for an  
40 extended warranty to a consumer. For purposes of this subsection,

1 "extended warranty" means an agreement for a specified duration to  
2 perform the replacement or repair of tangible personal property at no  
3 additional charge or a reduced charge for tangible personal property,  
4 labor, or both, or to provide indemnification for the replacement or  
5 repair of tangible personal property, based on the occurrence of  
6 specified events. The term "extended warranty" does not include an  
7 agreement, otherwise meeting the definition of extended warranty in  
8 this subsection, if no separate charge is made for the agreement and  
9 the value of the agreement is included in the sales price of the  
10 tangible personal property covered by the agreement. For purposes of  
11 this subsection, "sales price" has the same meaning as in RCW  
12 82.08.010.

13 (8) (a) The term also includes the following sales to consumers of  
14 digital goods, digital codes, and digital automated services:

15 (i) Sales in which the seller has granted the purchaser the right  
16 of permanent use;

17 (ii) Sales in which the seller has granted the purchaser a right  
18 of use that is less than permanent;

19 (iii) Sales in which the purchaser is not obligated to make  
20 continued payment as a condition of the sale; and

21 (iv) Sales in which the purchaser is obligated to make continued  
22 payment as a condition of the sale.

23 (b) A retail sale of digital goods, digital codes, or digital  
24 automated services under this subsection (8) includes any services  
25 provided by the seller exclusively in connection with the digital  
26 goods, digital codes, or digital automated services, whether or not a  
27 separate charge is made for such services.

28 (c) For purposes of this subsection, "permanent" means perpetual  
29 or for an indefinite or unspecified length of time. A right of  
30 permanent use is presumed to have been granted unless the agreement  
31 between the seller and the purchaser specifies or the circumstances  
32 surrounding the transaction suggest or indicate that the right to use  
33 terminates on the occurrence of a condition subsequent.

34 (9) The term also includes the charge made for providing tangible  
35 personal property along with an operator for a fixed or indeterminate  
36 period of time. A consideration of this is that the operator is  
37 necessary for the tangible personal property to perform as designed.  
38 For the purpose of this subsection (9), an operator must do more than  
39 maintain, inspect, or set up the tangible personal property.

1 (10) The term does not include the sale of or charge made for  
2 labor and services rendered in respect to the building, repairing, or  
3 improving of any street, place, road, highway, easement, right-of-  
4 way, mass public transportation terminal or parking facility, bridge,  
5 tunnel, or trestle which is owned by a municipal corporation or  
6 political subdivision of the state or by the United States and which  
7 is used or to be used primarily for foot or vehicular traffic  
8 including mass transportation vehicles of any kind.

9 (11) The term also does not include sales of chemical sprays or  
10 washes to persons for the purpose of postharvest treatment of fruit  
11 for the prevention of scald, fungus, mold, or decay, nor does it  
12 include sales of feed, seed, seedlings, fertilizer, agents for  
13 enhanced pollination including insects such as bees, and spray  
14 materials to: (a) Persons who participate in the federal conservation  
15 reserve program, the environmental quality incentives program, the  
16 wetlands reserve program, and the wildlife habitat incentives  
17 program, or their successors administered by the United States  
18 department of agriculture; (b) farmers for the purpose of producing  
19 for sale any agricultural product; (c) farmers for the purpose of  
20 providing bee pollination services; and (d) farmers acting under  
21 cooperative habitat development or access contracts with an  
22 organization exempt from federal income tax under 26 U.S.C. Sec.  
23 501(c)(3) of the federal internal revenue code or the Washington  
24 state department of fish and wildlife to produce or improve wildlife  
25 habitat on land that the farmer owns or leases.

26 (12) The term does not include the sale of or charge made for  
27 labor and services rendered in respect to the constructing,  
28 repairing, decorating, or improving of new or existing buildings or  
29 other structures under, upon, or above real property of or for the  
30 United States, any instrumentality thereof, or a county or city  
31 housing authority created pursuant to chapter 35.82 RCW, including  
32 the installing, or attaching of any article of tangible personal  
33 property therein or thereto, whether or not such personal property  
34 becomes a part of the realty by virtue of installation. Nor does the  
35 term include the sale of services or charges made for the clearing of  
36 land and the moving of earth of or for the United States, any  
37 instrumentality thereof, or a county or city housing authority. Nor  
38 does the term include the sale of services or charges made for  
39 cleaning up for the United States, or its instrumentalities,

1 radioactive waste and other by-products of weapons production and  
2 nuclear research and development.

3 (13) The term does not include the sale of or charge made for  
4 labor, services, or tangible personal property pursuant to agreements  
5 providing maintenance services for bus, rail, or rail fixed guideway  
6 equipment when a regional transit authority is the recipient of the  
7 labor, services, or tangible personal property, and a transit agency,  
8 as defined in RCW 81.104.015, performs the labor or services.

9 (14) The term does not include the sale for resale of any service  
10 described in this section if the sale would otherwise constitute a  
11 "sale at retail" and "retail sale" under this section.

12 (15)(a) The term "sale at retail" or "retail sale" includes  
13 amounts charged, however labeled, to consumers to engage in any of  
14 the activities listed in this subsection (15)(a), including the  
15 furnishing of any associated equipment or, except as otherwise  
16 provided in this subsection, providing instruction in such  
17 activities, where such charges are not otherwise defined as a "sale  
18 at retail" or "retail sale" in this section:

19 (i)(A) Golf, including any variant in which either golf balls or  
20 golf clubs are used, such as miniature golf, hitting golf balls at a  
21 driving range, and golf simulators, and including fees charged by a  
22 golf course to a player for using his or her own cart. However,  
23 charges for golf instruction are not a retail sale, provided that if  
24 the instruction involves the use of a golfing facility that would  
25 otherwise require the payment of a fee, such as green fees or driving  
26 range fees, such fees, including the applicable retail sales tax,  
27 must be separately identified and charged by the golfing facility  
28 operator to the instructor or the person receiving the instruction.

29 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except  
30 as otherwise provided in this subsection (15)(a)(i)(B), the term  
31 "sale at retail" or "retail sale" does not include amounts charged to  
32 participate in, or conduct, a golf tournament or other competitive  
33 event. However, amounts paid by event participants to the golf  
34 facility operator are retail sales under this subsection (15)(a)(i).  
35 Likewise, amounts paid by the event organizer to the golf facility  
36 are retail sales under this subsection (15)(a)(i), if such amounts  
37 vary based on the number of event participants;

38 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,  
39 paragliding, parasailing, and similar activities;



1 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,  
2 ping pong, and similar games;

3 (iv) Access to amusement park, theme park, and water park  
4 facilities, including but not limited to charges for admission and  
5 locker or cabana rentals. Discrete charges for rides or other  
6 attractions or entertainment that are in addition to the charge for  
7 admission are not a retail sale under this subsection (15)(a)(iv).  
8 For the purposes of this subsection, an amusement park or theme park  
9 is a location that provides permanently affixed amusement rides,  
10 games, and other entertainment, but does not include parks or zoos  
11 for which the primary purpose is the exhibition of wildlife, or  
12 fairs, carnivals, and festivals as defined in (b)(i) of this  
13 subsection;

14 (v) Batting cage activities;

15 (vi) Bowling, but not including competitive events, except that  
16 amounts paid by the event participants to the bowling alley operator  
17 are retail sales under this subsection (15)(a)(vi). Likewise, amounts  
18 paid by the event organizer to the operator of the bowling alley are  
19 retail sales under this subsection (15)(a)(vi), if such amounts vary  
20 based on the number of event participants;

21 (vii) Climbing on artificial climbing structures, whether indoors  
22 or outdoors;

23 (viii) Day trips for sightseeing purposes;

24 (ix) Bungee jumping, zip lining, and riding inside a ball,  
25 whether inflatable or otherwise;

26 (x) Horseback riding offered to the public, where the seller  
27 furnishes the horse to the buyer and providing instruction is not the  
28 primary focus of the activity, including guided rides, but not  
29 including therapeutic horseback riding provided by an instructor  
30 certified by a nonprofit organization that offers national or  
31 international certification for therapeutic riding instructors;

32 (xi) Fishing, including providing access to private fishing areas  
33 and charter or guided fishing, except that fishing contests and  
34 license fees imposed by a government entity are not a retail sale  
35 under this subsection;

36 (xii) Guided hunting and hunting at game farms and shooting  
37 preserves, except that hunting contests and license fees imposed by a  
38 government entity are not a retail sale under this subsection;

39 (xiii) Swimming, but only in respect to (A) recreational or  
40 fitness swimming that is open to the public, such as open swim, lap

1 swimming, and special events like kids night out and pool parties  
2 during open swim time, and (B) pool parties for private events, such  
3 as birthdays, family gatherings, and employee outings. Fees for  
4 swimming lessons, to participate in swim meets and other  
5 competitions, or to join a swim team, club, or aquatic facility are  
6 not retail sales under this subsection (15)(a)(xiii);

7 (xiv) Go-karting, bumper cars, and other motorized activities  
8 where the seller provides the vehicle and the premises where the  
9 buyer will operate the vehicle;

10 (xv) Indoor or outdoor playground activities, such as inflatable  
11 bounce structures and other inflatables; mazes; trampolines; slides;  
12 ball pits; games of tag, including laser tag and soft-dart tag; and  
13 human gyroscope rides, regardless of whether such activities occur at  
14 the seller's place of business, but not including playground  
15 activities provided for children by a licensed child day care center  
16 or licensed family day care provider as those terms are defined in  
17 RCW 43.216.010;

18 (xvi) Shooting sports and activities, such as target shooting,  
19 skeet, trap, sporting clays, "5" stand, and archery, but only in  
20 respect to discrete charges to members of the public to engage in  
21 these activities, but not including fees to enter a competitive  
22 event, instruction that is entirely or predominately classroom based,  
23 or to join or renew a membership at a club, range, or other facility;

24 (xvii) Paintball and airsoft activities;

25 (xviii) Skating, including ice skating, roller skating, and  
26 inline skating, but only in respect to discrete charges to members of  
27 the public to engage in skating activities, but not including skating  
28 lessons, competitive events, team activities, or fees to join or  
29 renew a membership at a skating facility, club, or other  
30 organization;

31 (xix) Nonmotorized snow sports and activities, such as downhill  
32 and cross-country skiing, snowboarding, ski jumping, sledding, snow  
33 tubing, snowshoeing, and similar snow sports and activities, whether  
34 engaged in outdoors or in an indoor facility with or without snow,  
35 but only in respect to discrete charges to the public for the use of  
36 land or facilities to engage in nonmotorized snow sports and  
37 activities, such as fees, however labeled, for the use of ski lifts  
38 and tows and daily or season passes for access to trails or other  
39 areas where nonmotorized snow sports and activities are conducted.  
40 However, fees for the following are not retail sales under this

1 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits  
2 issued by a governmental entity to park a vehicle on or access public  
3 lands; and (C) permits or leases granted by an owner of private  
4 timberland for recreational access to areas used primarily for  
5 growing and harvesting timber; and

6 (xx) Scuba diving; snorkeling; river rafting; surfing;  
7 kiteboarding; flyboarding; water slides; inflatables, such as water  
8 pillows, water trampolines, and water rollers; and similar water  
9 sports and activities.

10 (b) Notwithstanding anything to the contrary in this subsection  
11 (15), the term "sale at retail" or "retail sale" does not include  
12 charges:

13 (i) Made for admission to, and rides or attractions at, fairs,  
14 carnivals, and festivals. For the purposes of this subsection, fairs,  
15 carnivals, and festivals are events that do not exceed (~~twenty-one~~)  
16 21 days and a majority of the amusement rides, if any, are not  
17 affixed to real property;

18 (ii) Made by an educational institution to its students and staff  
19 for activities defined as retail sales by (a)(i) through (xx) of this  
20 subsection. However, charges made by an educational institution to  
21 its alumni or other members of the general public for these  
22 activities are a retail sale under this subsection (15). For purposes  
23 of this subsection (15)(b)(ii), "educational institution" has the  
24 same meaning as in RCW 82.04.170;

25 (iii) Made by a vocational school for commercial diver training  
26 that is licensed by the workforce training and education coordinating  
27 board under chapter 28C.10 RCW; or

28 (iv) Made for day camps offered by a nonprofit organization or  
29 state or local governmental entity that provide youth not older than  
30 age (~~eighteen~~) 18, or that are focused on providing individuals  
31 with disabilities or mental illness, the opportunity to participate  
32 in a variety of supervised activities.

33 **Sec. 9.** RCW 82.32.790 and 2019 c 449 s 2 are each amended to  
34 read as follows:

35 (1)(a) Section (~~(2)~~) 1, chapter 449, Laws of 2019, sections 510,  
36 512, 514, 516, (~~(518)~~) 520, 522, and 524, chapter 37, Laws of 2017  
37 3rd sp. sess., sections (~~(9)~~) 13, 17, 22, 24, 30, 32, and 45,  
38 chapter 135, Laws of 2017, sections (~~(104)~~) 110, 117, 123, 125, 129,  
39 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, (~~(3)~~)

1 and 5 through 10, chapter 149, Laws of 2003 are contingent upon the  
2 siting and commercial operation of a significant semiconductor  
3 microchip fabrication facility in the state of Washington by January  
4 1, 2024.

5 (b) For the purposes of this section:

6 (i) "Commercial operation" means the same as "commencement of  
7 commercial production" as used in RCW 82.08.965.

8 (ii) "Semiconductor microchip fabrication" means "manufacturing  
9 semiconductor microchips" as defined in RCW 82.04.426.

10 (iii) "Significant" means the combined investment of new  
11 buildings and new machinery and equipment in the buildings, at the  
12 commencement of commercial production, will be at least (~~one billion~~  
13 ~~dollars~~) \$1,000,000,000.

14 (2) The sections referenced in subsection (1) of this section  
15 take effect the first day of the month in which a contract for the  
16 construction of a significant semiconductor fabrication facility is  
17 signed, if the contract is signed and received by January 1, 2024, as  
18 determined by the director of the department of revenue.

19 (3) (a) The department of revenue must provide notice of the  
20 effective date of the sections referenced in subsection (1) of this  
21 section to affected taxpayers, the legislature, and others as deemed  
22 appropriate by the department.

23 (b) If, after making a determination that a contract has been  
24 signed and the sections referenced in subsection (1) of this section  
25 are effective, the department discovers that commencement of  
26 commercial production did not take place within three years of the  
27 date the contract was signed, the department must make a  
28 determination that chapter 149, Laws of 2003 is no longer effective,  
29 and all taxes that would have been otherwise due are deemed deferred  
30 taxes and are immediately assessed and payable from any person  
31 reporting tax under RCW 82.04.240(2) or claiming an exemption or  
32 credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965,  
33 82.08.970, 82.12.970, or 84.36.645. The department is not authorized  
34 to make a second determination regarding the effective date of the  
35 sections referenced in subsection (1) of this section.

36 (4) (a) This section expires January 1, 2024, if the contingency  
37 in subsection (2) of this section does not occur by January 1, 2024,  
38 as determined by the department.

39 (b) The department must provide written notice of the expiration  
40 date of this section and the sections referenced in subsection (1) of

1 this section to affected taxpayers, the legislature, and others as  
2 deemed appropriate by the department.

3 NEW SECTION. **Sec. 10.** 2017 3rd sp.s. c 37 s 518, 2017 c 135 s  
4 9, 2010 c 114 s 104, & 2003 c 149 s 3 are each repealed.

5 **Sec. 11.** 2020 c 80 s 62 (uncodified) is amended to read as  
6 follows:

7 (1) Sections 12 through 57 and 59 of this act take effect July 1,  
8 2022.

9 (2) Section 58 of this act takes effect October 1, 2021.

10 NEW SECTION. **Sec. 12.** This act takes effect October 1, 2021.

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