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**HOUSE BILL 1644**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Walen, Ramel, Duerr, Pollet, and Macri

AN ACT Relating to the margin tax; amending RCW 34.05.328, 82.04.020, 82.04.066, 82.04.067, 82.04.080, 82.04.2403, 82.04.310, 82.04.311, 82.04.320, 82.04.322, 82.04.323, 82.04.340, 82.04.350, 82.04.360, 82.04.380, 82.04.390, 82.04.405, 82.04.408, 82.04.4282, 82.04.4283, 82.04.4284, 82.04.4285, 82.04.4286, 82.04.4293, 82.04.4339, 82.04.440, 82.04.4497, 82.04.4499, 82.04.615, 82.04.767, 82.04.261, 82.04.285, 82.04.286, 82.04.29004, 82.04.290, 82.04.510, 82.32.045, 82.32.057, 82.32.090, 9.41.100, 9.46.071, 9.91.180, 28C.18.200, 35.87A.010, 35.102.160, 43.06.400, 43.365.020, 48.14.080, 48.62.151, 48.64.110, 48.180.055, 48.190.100, 49.04.220, 81.112.330, 82.02.250, 82.04.010, 82.04.051, 82.04.062, 82.04.2404, 82.04.280, 82.04.294, 82.04.297, 82.04.324, 82.04.385, 82.04.4265, 82.04.540, 82.04.293, 82.04.4328, 82.04.431, 82.08.0209, 82.08.02807, 82.08.0531, 82.08.052, 82.08.0291, 82.08.0311, 82.08.207, 82.08.806, 82.08.820, 82.08.830, 82.08.965, 82.08.9651, 82.08.970, 82.08.990, 82.12.02749, 82.12.0311, 82.12.970, 82.14B.061, 82.16.0496, 82.16.100, 82.16.325, 82.19.050, 82.29A.137, 82.32.030, 82.32.450, 82.32.534, 82.32.537, 82.32.670, 82.32.710, 82.32.790, 82.45.195, 84.36.645, 84.36.655, 88.46.010, and 90.56.010; reenacting and amending RCW 82.04.299, 43.79.195, 82.04.050, 82.04.170, 82.04.190, and 88.40.011; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; creating new sections; repealing RCW 43.365.050, 82.04.212, 82.04.220, 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.257, 82.04.258, 82.04.260, 82.04.2602, 82.04.263, 82.04.270, 82.04.272, 82.04.29001, 82.04.29002, 82.04.29005, 82.04.2905, 82.04.2906, 82.04.2907, 82.04.2908, 82.04.2909, 82.04.298, 82.04.301, 82.04.315, 82.04.317, 82.04.321, 82.04.326, 82.04.327, 82.04.330, 82.04.331, 82.04.332, 82.04.333, 82.04.334, 82.04.335, 82.04.337, 82.04.338, 82.04.339, 82.04.3395, 82.04.355, 82.04.363, 82.04.367, 82.04.368, 82.04.370, 82.04.392, 82.04.399, 82.04.410, 82.04.415, 82.04.418, 82.04.4201, 82.04.421, 82.04.422, 82.04.423, 82.04.425, 82.04.4251, 82.04.426, 82.04.4261, 82.04.4262, 82.04.4263, 82.04.4264, 82.04.4266, 82.04.4267, 82.04.4268, 82.04.4269, 82.04.427, 82.04.4271, 82.04.4272, 82.04.4274, 82.04.4275, 82.04.4281, 82.04.4287, 82.04.4289, 82.04.4290, 82.04.4291, 82.04.4292, 82.04.4294, 82.04.4295, 82.04.4296, 82.04.4297, 82.04.4298, 82.04.4311, 82.04.432, 82.04.4327, 82.04.433, 82.04.4331, 82.04.4332, 82.04.4337, 82.04.43391, 82.04.43392, 82.04.43393, 82.04.43395, 82.04.43396, 82.04.434, 82.04.4451, 82.04.44525, 82.04.4461, 82.04.4463, 82.04.447, 82.04.448, 82.04.4481, 82.04.4482, 82.04.4486, 82.04.4489, 82.04.449, 82.04.4496, 82.04.4498, 82.04.460, 82.04.462, 82.04.520, 82.04.545, 82.04.600, 82.04.601, 82.04.610, 82.04.620, 82.04.627, 82.04.628, 82.04.635, 82.04.640, 82.04.645, 82.04.650, 82.04.660, 82.04.750, 82.04.755, 82.04.756, 82.04.758, 82.04.765, 82.04.770, 82.04.775, 82.04.900, and 82.32.533; providing an effective date; providing a contingent effective date; providing an expiration date; and providing contingent expiration dates.

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

**PART I**

**INTENT**

NEW SECTION. **Sec.**  (1) The legislature finds that the state's business and occupation tax, as a gross receipts tax, imposes significant hardships on new businesses, small businesses, and unprofitable and low profit-margin businesses. The legislature further finds that the piecemeal enactment of countless tax preferences to ameliorate these hardships has led to an exceedingly complex tax. The legislature intends to address these issues and improve Washington's economy by converting the business and occupation tax into a modified gross receipts tax to be known as the margin tax. Like the business and occupation tax, the margin tax is imposed upon virtually all business activities carried on within the state, other than those specifically exempt under the constitutions or laws of this state or of the United States.

(2) The legislature recognizes that this proposal, if passed, would reduce the amount distributed to tribes who have entered into compacts under chapter 132, Laws of 2020, as they are currently receiving 100 percent of business and occupation tax from retail sales taxable transactions sourced to a compacting tribe's compact covered area. With the passage of this act, it is not the intent of the legislature to reduce compacting tribes' benefits under tax revenue-sharing compacts. It is the intent of the legislature for the department of revenue to fulfill its compact obligations to discuss any changes in the compact or authorizing acts that may be appropriate to preserve the intended benefits of each compact.

(3) The legislature also recognizes that the federal permanent internet tax freedom act generally prohibits state and local governments from imposing a tax on internet access but expressly excludes certain taxes from this prohibition, including Washington's business and occupation tax. The legislature does not intend by this act to exempt internet access from any tax imposed in this act. Therefore, the legislature intends for the taxes imposed in this act to be considered a modification of the business and occupation tax.

**PART II**

**MARGIN TAX**

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to be codified between RCW 82.04.010 and 82.04.020 to read as follows:

DEFINITIONS.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Affiliate" and a person that is "affiliated" mean a person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(b) For purposes of this subsection (1), "control" means the possession, directly or indirectly, of more than 50 percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(2) "Affiliated group" means a group of two or more persons that are affiliated with each other.

(3)(a) "Combined group" means a group of persons that are part of an affiliated group engaged in a unitary business, not including affiliates excluded from a combined group as authorized under section 209(6) of this act.

(b) For purposes of this subsection (3), "unitary business" means a business enterprise in which there exists directly or indirectly between the members or parts of the enterprise a sharing or exchange of value as demonstrated by:

(i) Centralized management or a common executive force;

(ii) Centralized administrative services or functions resulting in economies of scale;

(iii) Flow of goods, capital resources, or services demonstrating functional integration; and

(iv) Any other factors the department considers relevant.

(4) "Compensation" means medicare wages properly reportable on box 5 of internal revenue service form W-2 based on federal law as it existed on the effective date of this section or a subsequent date as may be provided by the department by rule, and paid by a taxpayer to an individual for services rendered as an employee of the taxpayer.

(5) "Cost inputs" means a taxpayer's cost of producing or acquiring goods sold by the taxpayer, or producing goods for commercial or industrial use, during the tax year as determined in section 204 of this act.

(6) "Employee" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee. "Employee" also includes those persons that are defined as an employee in section 3121(d) of the internal revenue code.

(7)(a) "Goods" means tangible personal property or real property improvements, including agricultural products grown, raised, or produced by the seller; digital products; digital codes; and prewritten computer software.

(b) For purposes of determining cost inputs under this subsection (7), "produced" means to construct, build, install, manufacture, develop, improve, create, raise, or grow the property.

(8) "Internal revenue code" means the internal revenue code of 1986, as it existed on the effective date of this section or a subsequent date as may be provided by the department by rule.

(9) "Product" has the same meaning as in RCW 82.32.023.

(10) "Taxable margin" is the measure of the margin tax imposed under section 202 of this act: (a) After all applicable deductions have been subtracted from the gross income of the business or the value of products manufactured or extracted in this state; and (b) after apportionment or allocation to this state as provided in sections 207 and 208 of this act.

(11) "Taxpayer" means a person or combined group subject to tax under this chapter.

(12) "Worldwide gross income of the business" means income originating from any location globally, less any income that is excluded as a result of an election under section 209(6) of this act for foreign affiliates not engaging in business in Washington.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to be codified between RCW 82.04.217 and 82.04.2403 to read as follows:

TAX IMPOSED—RATES—COMPUTATION OF TAX.

(1) For the act or privilege of engaging within this state in business, a tax is imposed on each taxpayer that has a substantial nexus with Washington under RCW 82.04.067, including taxpayers subject to tax under subsection (2) of this section.

(2)(a) For the act or privilege of engaging within this state in business, a tax is imposed on each taxpayer engaging within this state in business as a manufacturer.

(b) For the act or privilege of engaging within this state in business, a tax is imposed on each taxpayer engaging within this state in business as an extractor.

(c) Taxpayers engaging in business both as a manufacturer and extractor are subject to the taxes imposed under this subsection (2) on both business activities.

(d) The taxes imposed in this subsection (2) are in addition to the tax imposed in subsection (1) of this section.

(3) Credits are provided in section 302 of this act to ensure that a taxpayer's taxable margin is taxed only once with respect to a product that is both produced and sold by the taxpayer.

(4) The taxes imposed under this section are computed by multiplying a taxpayer's taxable margin by 3.1966 percent.

(5) The tax imposed in this section may be referred to as the margin tax or Washington margin tax.

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

DETERMINATION OF TAXABLE MARGIN.

(1) For purposes of the tax imposed under section 202(1) of this act, a taxpayer must calculate its taxable margin by selecting one of the following options to deduct from its worldwide gross income of the business:

(a) Worldwide gross income of the business earned during the tax year multiplied by 30 percent;

(b) The standard deduction, which is $1,000,000 for the tax year beginning January 1, 2027, and is adjusted for subsequent tax years as provided by section 206 of this act;

(c) Cost inputs, as determined under section 204 of this act; or

(d) Compensation, as determined under section 205 of this act.

(2) For purposes of the taxes imposed under section 202(2) of this act, a taxpayer must calculate its taxable margin by selecting one of the following options to deduct from its value of products, including byproducts, manufactured or extracted in Washington for sale or for commercial or industrial use:

(a) Value of products manufactured or extracted in Washington during the tax year multiplied by 30 percent;

(b) The standard deduction, which is $1,000,000 for the tax year beginning January 1, 2027, and is adjusted for subsequent tax years as provided by section 206 of this act; or

(c) Cost inputs for the products manufactured or extracted in Washington during the tax year, as determined under section 204 of this act.

(3) Taxpayers must apportion or allocate their taxable margin to this state as provided by sections 207 and 208 of this act.

(4) The taxable margin of a taxpayer cannot be less than zero.

(5) Payments made between members of a combined group taxpayer may be deducted under subsection (1) or (2) of this section, provided those amounts were included in the taxpayer's gross income of the business or value of products.

(6) A taxpayer may elect to claim any one of the deductions under subsection (1) or (2) of this section for a tax year. However, once a taxpayer has made its election by filing a tax return or otherwise notifying the department in writing of its election, it cannot later change its election for the tax year. The taxpayer may change its deduction election for subsequent tax years.

(7) Amounts deducted from either gross income of the business or the value of products under any other section of this chapter cannot also be deducted from gross income of the business or value of products as compensation or cost input under this chapter, except as provided in RCW 82.04.767.

(8) In calculating a taxpayer's taxable margin during an audit for a tax year for which the taxpayer failed to file a tax return, the department must use the deduction under this section that appears to the department to be the most advantageous to the taxpayer.

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

DETERMINATION OF COST OF INPUTS.

(1) A taxpayer that elects to deduct its cost inputs for the purpose of computing its taxable margin under section 203 of this act must determine the amount of the cost inputs as provided by this section.

(2)(a) The cost inputs deductible under section 203 of this act are the cost of goods sold properly reportable for federal income tax purposes. The department need not accept the cost of goods sold reported on the taxpayer's federal income tax return if the department determines that such amount is in error.

(b) For taxpayers that would be able to report cost of goods sold for federal income tax purposes if they were subject to federal income tax, the cost inputs deductible under section 203 of this act are the cost of goods sold that would be properly reportable for federal income tax purposes if the taxpayer were subject to federal income tax.

(c) For purposes of the tax imposed under section 202(2) of this act, cost inputs are limited to the costs of goods sold for products manufactured or extracted in Washington, whether for sale or for commercial or industrial use.

(3) A combined group that elects to subtract cost of goods sold must determine that amount by:

(a) Determining the cost of goods sold for each of its members as provided by this section as if each member were an individual taxable entity; and

(b) Adding the amounts determined under (a) of this subsection (3).

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

DETERMINATION OF COMPENSATION.

(1) A taxpayer that elects to deduct compensation to determine taxable margin under section 203 of this act may deduct an amount equal to:

(a) The total amount of compensation paid to the taxpayer's employees during the tax year, less any amount of compensation in excess of the compensation cap in (b) of this subsection (1).

(b) For purposes of this subsection (1), the compensation cap applies on a per-employee basis and is $400,000 per employee for the tax year beginning January 1, 2027. The compensation cap is adjusted for subsequent tax years as provided by section 206 of this act.

(2) If an employee receives compensation from more than one member of a combined group, the combined group may not deduct in relation to that employee a total of more than the compensation cap.

(3) A combined group that elects to deduct compensation must determine the amount of the deduction by:

(a) Determining the compensation for each of its members as provided by this section as if each member were an individual taxable entity, subject to the limitations prescribed by subsections (1) and (2) of this section; and

(b) Adding the amounts determined under (a) of this subsection (3).

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

INFLATION ADJUSTMENTS.

(1) Effective for tax years beginning January 1, 2029, and every two years thereafter, the department must adjust the standard deduction and compensation deduction cap as prescribed by sections 203 and 205 of this act respectively. The adjustment is calculated by multiplying the previous standard deduction and compensation deduction cap by the sum of one plus the percentage increase in the consumer price index during the preceding state fiscal biennium, rounded to the nearest $10,000. If the consumer price index decreased during the preceding state fiscal biennium, the department shall not adjust the standard deduction and compensation cap deduction.

(2) The department must publish the updated standard deduction and compensation deduction cap on its website.

(3) For purposes of this section, "consumer price index" means the seasonally adjusted consumer price index for all urban consumers (CPI-U), United States city average, as most recently published by November 20th by the United States bureau of labor statistics or its successor agency.

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

APPORTIONMENT AND ALLOCATION OF TAXABLE MARGIN AND GROSS INCOME OF THE BUSINESS.

(1) For purposes of determining the proper amount of any tax due under this chapter, taxable margin, value of products, and gross income of the business, including gross proceeds of sales, are allocated and apportioned as provided in this section.

(2) Except for taxable margin and gross income of the business allocated under the provisions of subsection (4) or (5) of this section, taxable margin and gross income of the business are apportioned to this state by multiplying the taxable margin or gross income of the business by a fraction, as follows:

(a) The numerator of the fraction is the taxpayer's gross income of the business attributed to Washington as provided in section 208 of this act;

(b) The denominator of the fraction is the worldwide gross income of the business.

(3) A taxpayer that is required to file returns as a combined group must include in the numerator computed under subsection (2)(a) of this section the gross income of the business from engaging in business in Washington of each affiliate that is a member of the combined group, without regard to whether that entity has a substantial nexus with this state for the purpose of the taxes imposed in this chapter.

(4)(a) Except as otherwise provided in (b) of this subsection (4), in the case of manufacturing, extracting, processing for hire, extracting for hire, and selling standing timber, where a business is subject to tax under section 202(2) of this act or RCW 82.04.261, the taxable margin, value of products, and gross income of the business from those activities conducted in this state is allocated to this state in its entirety.

(b) Where the manufacturing of a product occurs partly within and outside of this state, the taxpayer must attribute the portion of the measure of tax that reasonably reflects the extent of the manufacturing activity that occurred within this state.

(5) In the case of the surcharge imposed in RCW 82.04.261 on wholesale sales, the gross proceeds of sales are allocated to this state in the same manner as retail sales are sourced to this state under RCW 82.32.730 for retail sales tax purposes.

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

ATTRIBUTING INCOME FOR APPORTIONMENT PURPOSES.

(1) Except as otherwise provided in subsection (4)(d) of this section, gross income of the business is attributable to Washington as provided in this section.

(2) In the case of gross income of the business from the retail sale or wholesale sale of any product, the gross income of the business is attributed to this state if the sale is sourced to this state under RCW 82.32.730 for purposes of the retail sales tax or would be sourced to this state under that statute if the retail sales tax imposed in chapter 82.08 RCW applied to that sale.

(3) In the case of gross income of the business from the granting of a right to use, enter, or enjoy real property, the gross income of the business is attributed to this state if the real property is located in this state. If the real property is located in this and any other state, the gross income of the business must be attributed to this state in proportion to the area of the real property located in this state relative to the total area of the real property both within and outside of this state.

(4)(a) In the case of gross income of the business from services or from royalties for the use of the taxpayer's intangible property, other than activities described in subsections (2) and (3) of this section, the gross income of the business is attributed to this state if the customer received the benefit of the taxpayer's service or, in the case of gross income from royalties, the customer used the taxpayer's intangible property, in this state. When a customer receives the benefit of the taxpayer's services or uses the taxpayer's intangible property in this and one or more other states, the taxpayer must attribute to this state a portion of gross income of the business that reasonably reflects the extent to which the customer received the benefit of the taxpayer's services or used the taxpayer's intangible property in this state.

(b) In the case of gross income of the business generated from activities other than those described in (a) of this subsection (4) and subsections (2) and (3) of this section, gross income of the business is attributed to this state to the extent that the gross income of the business fairly represents those business activities of the taxpayer conducted in this state.

(c) For purposes of this section, gross income of the business must be excluded from the denominator of the receipts factor if, in respect to such gross income of the business, at least some of the activity that generated that income is performed in this state, and the gross income of the business would be attributable to a state in which the taxpayer is not taxable if that state's business activity tax laws were identical to the provisions of this chapter.

(d) (a) through (c) of this subsection (4) do not apply to financial institutions. For gross income of the business that would otherwise be attributed as provided in this subsection (4), financial institutions must calculate the receipts factor as provided in a rule that the department must adopt. The rule required under this subsection (4)(d) must, to the extent feasible, be consistent with the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as it existed on the effective date of this section or a subsequent date as may be provided by the department by rule, consistent with the purposes of this section, except that:

(i) The department's rule must provide for a single factor apportionment method based on the receipts factor; and

(ii) The definition of "financial institution" contained in appendix A to the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions is advisory only.

(5) For purposes of this section, the definitions in this subsection apply.

(a) "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a state. "Business activities tax" includes taxes measured in whole or in part on net income or gross income or receipts, including taxes similar to the margin tax imposed in this chapter. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

(b) "Customer" means a person or entity to whom the taxpayer makes a sale, renders services, or who pays royalties or charges in the nature of royalties for the use of the taxpayer's intangible property.

(c) "Not taxable" means that the taxpayer is not subject to a business activities tax by that state, except that a taxpayer is taxable in a state in which it would be deemed to have a substantial nexus with that state under the standards in RCW 82.04.067 regardless of whether that state imposes such a tax.

(d) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

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

AFFILIATED GROUP—COMBINED REPORTING—JOINT AND SEVERAL LIABILITY.

(1) A combined group must register with the department, file, and pay the taxes imposed in this chapter as a single taxpayer.

(2) The combined group must designate a single member as the reporting entity to register, file, and pay taxes on behalf of the combined group. The combined group may change the reporting entity only when the entity no longer has substantial nexus with this state under RCW 82.04.067, is no longer a member of the combined group, or as otherwise permitted or required by the department, at which time the combined group must designate another entity as the reporting entity.

(3) The department may collect identifying information about all members of a combined group and may require disclosure to the department, for each member, of the business activity inside and outside of this state.

(4) Each affiliate that is part of a combined group must, for purposes of determining taxable margin and apportioned taxable margin, include its activities for the same tax period as the combined group.

(5) Each affiliate that is part of a combined group is jointly and severally liable for the taxes owed by the combined group.

(6) A combined group includes all of its affiliated members, including those that do not have a substantial nexus with this state under RCW 82.04.067. However, a combined group may elect to exclude foreign members from the combined group that have not engaged within this state in business during the tax year. The department may by rule adopt policies and procedures for elections made under this subsection.

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

COMBINED GROUP TAXPAYER IS DEEMED TO BE ENGAGED IN THE BUSINESS OF ITS AFFILIATES.

For any taxpayer that is a combined group, the taxpayer is subject to any tax imposed in this chapter expressly on a taxpayer engaging in a specific business activity, including the taxes imposed in section 202(2) of this act and RCW 82.04.261 through 82.04.299, if any member of the taxpayer's combined group engages in the specific business activity within this state.

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

EASY COMPUTATION AND RATE.

(1) Notwithstanding any other provision of this chapter, a taxpayer who is subject to the margin tax under section 202(1) of this act and whose gross income of the business for the tax year from its entire business is not more than $5,000,000 may elect to pay the tax imposed under section 202(1) of this act in the amount computed and at the rate provided by this section rather than in the amount computed and at the tax rate provided under section 202 of this act.

(2) The amount of the tax due under the method authorized in this section is computed by:

(a) Determining the taxpayer's gross income of the business from all activities subject to tax under section 202(1) of this act;

(b) Apportioning the amount determined under (a) of this subsection (2) as provided by sections 207 and 208 of this act; and

(c) Multiplying the amount computed under (b) of this subsection (2) by 1.75 percent.

(3) A taxpayer that elects to pay the tax as provided by this section may not claim any deduction provided for in section 203 of this act.

(4) The option for taxpayers to apply the tax rate under this section does not apply to taxpayers engaged in the business of air commerce or air transportation as defined in 49 U.S.C. Sec. 40102 as it existed on the effective date of this section, or a subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

**Sec.**  RCW 34.05.328 and 2019 c 8 s 405 are each amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency must:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Provide notification in the notice of proposed rule making under RCW 34.05.320 that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW 34.05.340, the supplemental notice must include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis must be available when the rule is adopted under RCW 34.05.360;

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(e) Determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(f) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(g) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(h) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(i) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (h) of this section, the agency must place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency must place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan must describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency must do all of the following:

(a) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(a), the agency must report to the legislature pursuant to (b) of this subsection;

(b) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, the state building code council, and to the legislative rules of the department of fish and wildlife implementing chapter 77.55 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW 82.32.762(3);

(vi) Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045;

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents; ((~~or~~))

(viii) Rules of the department of revenue that adopt a uniform expiration date for reseller permits as authorized in RCW 82.32.780 and 82.32.783; or

(ix) Rules of the department of revenue that adopt policies or procedures for taxpayers making an election under section 209(6) of this act.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency must state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of regulatory assistance, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, must report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report must document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

**Sec.**  RCW 82.04.020 and 1975 1st ex.s. c 278 s 39 are each amended to read as follows:

"Tax year" ((~~or "taxable year"~~)) means ((~~either~~)) the calendar year((~~, or the taxpayer's fiscal year when permission is obtained from the department of revenue to use a fiscal year in lieu of the calendar year~~)).

**Sec.**  RCW 82.04.066 and 2019 c 8 s 702 are each amended to read as follows:

"Engaging within this state," ((~~and~~)) "engaging within the state," ((~~when used in connection with any apportionable activity as defined in RCW 82.04.460 or selling activity taxable under RCW 82.04.250(1), 82.04.257(1), 82.04.270, or other provision of this chapter~~)) "conducted in this state," and similar terms mean((~~s~~)) that a person generates gross income of the business from sources within this state, such as customers or intangible property located in this state, regardless of whether the person is physically present in this state.

**Sec.**  RCW 82.04.067 and 2019 c 8 s 102 are each amended to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if, in the current or immediately preceding calendar year, the person is:

(a) An individual and is a resident or domiciliary of this state;

(b) A business entity and is organized or commercially domiciled in this state; or

(c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and the person had:

(i) More than one hundred thousand dollars of cumulative gross receipts from this state; or

(ii) Subject to the limitation in RCW 82.32.531, physical presence in this state, which need only be demonstrably more than a slightest presence. A person engaging within this state in business as an extractor or manufacturer has physical presence in this state.

(2)(a) Cumulative gross receipts counting toward the threshold in subsection (1)(c)(i) of this section include all of a person's gross income of the business attributed to this state. For purposes of this subsection, gross income of the business is attributed to this state ((~~as follows:~~

~~(i) For apportionable income, all amounts included in the numerator of the receipts factor under RCW 82.04.462 and, in the case of financial institutions, all amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and~~

~~(ii) For all other income, the gross income of the business allocated to this state in accordance with the sourcing provisions of RCW 82.32.730~~)) in the same manner as gross income of the business is attributed to this state under section 208 of this act, and in the case of financial institutions, as provided in the rule adopted by the department as required under section 208 of this act.

(b) For a marketplace facilitator, cumulative gross receipts counting toward the threshold in subsection (1)(c)(i) of this section include, in addition to the gross proceeds of its own sales, the cumulative gross proceeds from sales by all marketplace sellers through the marketplace facilitator's marketplace, including marketplace sellers that do not have a substantial nexus with this state under the provisions of this section.

(3)(a) For purposes of subsection (1)(c)(ii) of this section, a person is physically present in this state if the person has property or employees in this state. A person has property in this state if the person owns or possesses property that is located in this state.

(b) A person is also physically present in this state for the purposes of subsection (1)(c)(ii) of this section if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

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

~~(a) "Apportionable income" has the same meaning as provided in RCW 82.04.460.~~

~~(b) "Marketplace,"~~)) A taxpayer that is a combined group has substantial nexus with this state under this section if any member of the combined group has substantial nexus with this state under this section.

(5)(a) A taxpayer who establishes or reestablishes a substantial nexus with this state after the first day of the current calendar year under the provisions of this section is subject to the taxes, including surcharges, imposed under this chapter for the current calendar year only on business activity occurring on and after the date that the taxpayer established or reestablished a substantial nexus with this state in the current calendar year.

(b) The provisions of (a) of this subsection do not apply to a taxpayer who met any of the criteria in subsection (1)(a) through (c) of this section during the immediately preceding calendar year, and the taxpayer is taxable under this chapter for the current calendar year in its entirety.

(6) For purposes of this section, "marketplace," "marketplace facilitator," and "marketplace seller" have the same meaning as provided in RCW 82.08.010.

((~~(c) "Product" has the same meaning as provided in RCW 82.32.023.~~))

**Sec.**  RCW 82.04.080 and 2010 1st sp.s. c 23 s 109 are each amended to read as follows:

(1) "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(2) Financial institutions must determine gains realized from trading in stocks, bonds, and other evidences of indebtedness on a net annualized basis. For purposes of this subsection, a financial institution means a person within the scope of the rule adopted by the department under the authority of ((~~RCW 82.04.460(2)~~)) section 208 of this act.

(3) With respect to the business of operating contests of chance, "gross income of the business" does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes. The definitions in RCW 82.04.285 apply to this subsection.

(4) "Gross income of the business" does not include the gross proceeds of sales of precious metal bullion or monetized bullion. However, "gross income of the business" of selling precious metal bullion or monetized bullion includes the taxpayer's gain on such sales and also amounts received as commissions upon transactions for the accounts of customers over and above the amount paid to other dealers associated in such transactions, but no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

(5)(a) With respect to real estate commissions earned by a real estate firm, "gross income of the business" is the gross commission earned by the particular real estate firm, including that portion of the commission paid to brokers, including designated and managing brokers, in the same firm on a particular transaction. However, when a real estate commission on a particular transaction is divided among real estate firms at the closing of the transaction, including a firm located out of state, each firm must include in its gross income of the business only its respective shares of said commission. Moreover, when the real estate firm has paid the tax as provided in this chapter, brokers, including designated and managing brokers, within the same real estate firm are not required to pay tax under this chapter upon the same transaction. If any firm located out of state receives a share of commission on a particular transaction and has a substantial nexus with this state under RCW 82.04.067, that company or broker is subject to the provisions of this chapter with respect to the commission.

(b) For the purposes of this subsection (5), "broker," "designated broker," "managing broker," and "real estate firm" have the same meanings as provided in RCW 18.85.011.

(6) With respect to amounts received from parimutuel wagering taxed under RCW 82.04.286, "gross income of the business" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW.

**PART III**

**EXEMPTIONS, CREDITS, AND ADDITIONAL DEDUCTIONS**

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

TEMPORARY CARRYOVER CREDITS.

(1) In computing the taxes imposed under this chapter, a taxpayer may claim unused business and occupation tax credits through the earlier of the tax year beginning January 1, 2031, or the tax year that includes the latest point in time for which the credit could have been claimed by the taxpayer under this chapter.

(2) A taxpayer that is a combined group may claim the unused business and occupation tax credits of any member of the combined group.

(3) The amount of credit claimed may not exceed the amount of tax otherwise due under this chapter for the tax year for which the credit is claimed. Unused credits may not be carried forward to tax years beginning on or after January 1, 2032.

(4) For purposes of this section, "unused business and occupation tax credit" means a credit against the tax imposed under this chapter and earned but not claimed before the effective date of the repeal of the credit under section 701 of this act.

(5) This section expires January 1, 2032.

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

CREDIT—TAXPAYERS TAXABLE ON MULTIPLE ACTIVITIES.

(1) Taxpayers subject to the margin tax imposed under section 202(2)(a) of this act for engaging in business within this state as a manufacturer are allowed a credit against that tax for any extracting taxes paid with respect to extracting the ingredients of the products manufactured in this state. The amount of the credit may not exceed the tax liability arising under section 202(2)(a) of this act with respect to the manufacturing of those products.

(2)(a) Taxpayers subject to the margin tax imposed under section 202(1) of this act with respect to selling products in this state are allowed a credit against that tax for either or both of the following:

(i) Any manufacturing taxes paid with respect to the manufacturing of products sold in this state; and

(ii) Extracting taxes paid with respect to the extracting of products sold in this state or ingredients of products so sold in this state. Extracting taxes taken as a credit under subsection (1) of this section may also be taken under this subsection (2)(a)(ii), if otherwise allowable under this subsection (2)(a)(ii).

(b) The amount of credit under this subsection (2) may not exceed the tax liability arising under section 202(1) of this act with respect to the sales of products manufactured or extracted by the seller. The department may require taxpayers claiming the credit under this subsection (2) to report the amount of their margin tax liability attributable to the sale in this state of products manufactured or extracted by the taxpayer.

(3)(a) Persons taxable under section 202(2) of this act with respect to extracting or manufacturing products in this state are allowed a credit against those taxes for any:

(i) Margin taxes paid to another state with respect to the sales of the products extracted or manufactured in this state;

(ii) Manufacturing taxes paid with respect to the manufacturing of products using ingredients extracted in this state; or

(iii) Manufacturing taxes paid with respect to manufacturing activities completed in another state for products manufactured in this state.

(b) The amount of the credit under this subsection (3) may not exceed the tax liability arising under section 202(2) of this act with respect to the extraction or manufacturing of products under (a) of this subsection (3).

(4) No application is required to claim credits under this section. Unused credit under this section may not be carried forward or backward and claimed for any tax reporting periods preceding or following the tax reporting period for which the credit is earned.

(5) For purposes of this section, the definitions in this subsection apply:

(a)(i) "Extracting tax" means a margin tax imposed expressly on the act or privilege of engaging in business as an extractor, and includes the tax imposed on extractors in section 202(2)(b) of this act and similar margin taxes paid to other states.

(ii) For purposes of this subsection (5)(a), "similar margin taxes" paid to other states does not include a margin tax as applied to the sale of products extracted by the taxpayer.

(b)(i) "Manufacturing tax" means a margin tax imposed expressly on the act or privilege of engaging in business as a manufacturer, and includes the tax imposed under section 202(2)(a) of this act and similar margin taxes paid to other states.

(ii) For purposes of this subsection (5)(b), "similar margin taxes paid to other states" does not include a margin tax as applied to the sale of products manufactured by the taxpayer.

(c) "Margin tax" means a tax that:

(i) Is imposed on or measured by a taxpayer's gross volume of business, in terms of gross income, gross receipts, value of products, or other terms, less a specified dollar amount that is at least $500,000, or a specified percentage of 15 percent or more of its gross income, or all or a significant portion of its labor costs, cost of goods sold, or cost inputs;

(ii) Does not allow deductions or exclusions in calculating the tax that would render the tax a net income tax or value added tax; and

(iii) Is not, pursuant to law or custom, separately stated from the sales price on any document of sale provided to the customer.

(d) "State" means:

(i) The state of Washington;

(ii) A state of the United States other than Washington, or any political subdivision of such other state;

(iii) The District of Columbia; and

(iv) Any foreign country or political subdivision thereof.

(e) "Taxpayer" has the same meaning as in section 201 of this act and includes any member of its combined group that has paid a margin tax to another state.

**Sec.**  RCW 82.04.2403 and 1994 c 167 s 1 are each amended to read as follows:

The tax imposed by ((~~RCW 82.04.240~~)) section 202(2)(a) of this act does not apply to cleaning fish. "Cleaning fish" means the removal of the head, fins, or viscera from fresh fish without further processing, other than freezing.

**Sec.**  RCW 82.04.310 and 2021 c 226 s 2 are each amended to read as follows:

((~~(1)~~)) This chapter does not apply to ((~~any person in respect to a~~)) business activity ((~~with respect to which tax liability is specifically imposed under the provisions of~~)) taxable under chapter 82.16 RCW, including amounts derived from activities for which a deduction or exemption is allowed under chapter 82.16 RCW ((~~82.16.050~~)). ((~~The~~)) However, the exemption in this ((~~sub~~))section does not apply to sales of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas, by a gas distribution business, if such sales are exempt from the tax imposed under chapter 82.16 RCW as provided in RCW 82.16.310.

((~~(2) This chapter does not apply to amounts received by any person for the sale of electrical energy for resale within or outside the state.~~

~~(3)(a) This chapter does not apply to amounts received by any person for the sale of natural or manufactured gas in a calendar year if that person sells within the United States a total amount of natural or manufactured gas in that calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year.~~

~~(b) For purposes of determining whether a person has sold within the United States a total amount of natural or manufactured gas in a calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year, the following transfers of gas are not considered to be the sale of natural or manufactured gas:~~

~~(i) The transfer of any natural or manufactured gas as a result of the acquisition of another business, through merger or otherwise; or~~

~~(ii) The transfer of any natural or manufactured gas accomplished solely to comply with federal regulatory requirements imposed on the pipeline transportation of such gas when it is shipped by a third-party manager of a person's pipeline transportation.~~

~~(4) Until January 1, 2031, this chapter does not apply to amounts received by any person in the form of credits against power contracts with the Bonneville power administration, or funds provided by the Bonneville power administration, for the purpose of implementing energy conservation programs or demand-side management programs, so long as the amount that would otherwise be owed under this chapter is used for purposes of low-income ratepayer assistance or weatherization. The funds generated for low-income ratepayer assistance and weatherization under this subsection must be additive to and not supplant any existing funds used by the utility for low-income ratepayer assistance and weatherization.~~))

**Sec.**  RCW 82.04.311 and 2002 c 365 s 14 are each amended to read as follows:

This chapter does not apply to ((~~income~~)) amounts received by the tobacco settlement authority under chapter 43.340 RCW.

**Sec.**  RCW 82.04.320 and 2021 c 281 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this section, this chapter does not apply to ((~~any person in respect to insurance business~~)) amounts upon which a tax based on gross premiums is paid to the state under Title 48 RCW.

(2) The provisions of this section do not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies.

(3) The provisions of this section do not exempt any bonding company from tax with respect to ((~~gross income derived~~)) taxable margin generated from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

(4) ((~~For purposes of this section, for periods preceding May 12, 2021, eligible captive insurers as defined in RCW 48.201.020 are deemed, in respect to their insurance business, to have paid a tax on gross premiums to the state.~~

~~(5)~~)) Eligible captive insurers affiliated with a public institution of higher education that are exempt from paying a premium tax under RCW 48.201.040 are exempt from the tax imposed by this chapter in respect to their insurance business. For purposes of this subsection ((~~(5)~~)) (4), the definitions in RCW 48.201.020 apply.

**Sec.**  RCW 82.04.322 and 1993 c 492 s 303 are each amended to read as follows:

This chapter does not apply to amounts received by any health maintenance organization, health care service contractor, or certified health plan in respect to premiums or prepayments that are taxable under RCW 48.14.0201.

**Sec.**  RCW 82.04.323 and 2022 c 73 s 1 are each amended to read as follows:

((~~The taxes imposed by this~~)) This chapter ((~~do~~)) does not apply to amounts received by the Washington health benefit exchange established under chapter 43.71 RCW.

**Sec.**  RCW 82.04.340 and 2000 c 103 s 6 are each amended to read as follows:

This chapter ((~~shall~~)) does not apply to ((~~any person in respect to~~)) amounts received from the business of conducting boxing contests and sparring or wrestling matches and exhibitions for the conduct of which a license must be secured from the department of licensing if the fee for the license is based, in whole or in part, on the gross receipts from the licensed activity.

**Sec.**  RCW 82.04.350 and 2005 c 369 s 7 are each amended to read as follows:

Except as provided in RCW 82.04.286(1), this chapter ((~~shall~~)) does not apply to ((~~any person in respect to~~)) amounts received from the business of conducting race meets for the conduct of which a license must be secured from the horse racing commission if the fee for the license is based, in whole or in part, on the gross receipts from the licensed activity.

**Sec.**  RCW 82.04.360 and 2010 1st sp.s. c 23 s 702 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to ((~~his or her~~)) the persons employment in the capacity of an employee or servant as distinguished from that of an independent contractor. ((~~For the purposes of this section, the definition of employee includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.~~))

(2) ((~~Until July 1, 2010, this chapter~~)) The exemption in subsection (1) of this section does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. ((~~Beginning on July 1, 2010, such amounts are taxable under RCW 82.04.290(2).~~))

(3) A booth renter is an independent contractor for purposes of this chapter. For purposes of this section, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and

(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

**Sec.**  RCW 82.04.380 and 1961 c 15 s 82.04.380 are each amended to read as follows:

This chapter ((~~shall~~)) does not apply to ((~~the gross sales or the gross income received by~~)) corporations ((~~which have been~~)) incorporated under any act of the congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

**Sec.**  RCW 82.04.390 and 1961 c 15 s 82.04.390 are each amended to read as follows:

This chapter ((~~shall~~)) does not apply to ((~~gross proceeds derived~~)) amounts received from the sale of real estate. This ((~~however, shall not be construed to allow a deduction of amounts~~)) exemption does not apply to gross income of the business received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions.

**Sec.**  RCW 82.04.405 and 1998 c 311 s 4 are each amended to read as follows:

This chapter ((~~shall~~)) does not apply to ((~~the gross income of~~)) amounts received by credit unions organized under the laws of this state, any other state, or the United States.

**Sec.**  RCW 82.04.408 and 1983 c 161 s 25 are each amended to read as follows:

This chapter does not apply to ((~~income~~)) amounts received by the state housing finance commission under chapter 43.180 RCW.

**Sec.**  RCW 82.04.4282 and 2009 c 535 s 410 are each amended to read as follows:

(1) In computing tax there may be deducted from ((~~the measure of tax~~)) gross income of the business amounts derived from bona fide ((~~(1)~~)) (a) initiation fees, ((~~(2)~~)) (b) dues, ((~~(3)~~)) (c) contributions, ((~~(4)~~)) (d) donations, ((~~(5)~~)) (e) tuition fees, ((~~(6)~~)) (f) charges made by a nonprofit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the nonprofit trade or professional organization, which trade show, convention, or educational seminar is not open to the general public, ((~~(7)~~)) (g) charges made for operation of privately operated kindergartens, and ((~~(8)~~)) (h) endowment funds.

(2) This section ((~~may~~)) does not ((~~be construed to~~)) exempt any person, association, or society from tax liability upon selling tangible personal property, digital goods, digital codes, or digital automated services, or upon providing facilities or other services for which a special charge is made to members or others. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services ((~~shall~~)) are not ((~~be considered as a deduction~~)) deductible under this section.

**Sec.**  RCW 82.04.4283 and 1980 c 37 s 4 are each amended to read as follows:

(1) In computing tax there may be deducted from ((~~the measure of tax~~)) gross income of the business the amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount ((~~under the extractive or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of RCW 82.04.450~~)) for purposes of the taxes imposed under section 202(2) of this act or RCW 82.04.261 on taxpayers engaging in business as a manufacturer or extractor.

(2) For purposes of this section, "cash discount" means a deduction from the invoice price of goods or charge for services that is allowed if the bill is paid on or before a specified date.

**Sec.**  RCW 82.04.4284 and 2004 c 153 s 307 are each amended to read as follows:

(1) In computing tax there may be deducted from ((~~the measure of tax~~)) gross income of the business bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, on which tax was previously paid.

(2) For purposes of this section, "bad debts" do not include:

(a) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;

(b) Expenses incurred in attempting to collect debt;

(c) Sales or use taxes payable to a seller; and

(d) Repossessed property.

(3) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the ((~~tax on the~~)) amount collected must be ((~~paid~~)) included in gross income of the business and reported on the return filed for the period in which the collection is made.

(4) Payments on a previously claimed bad debt must be applied under RCW 82.08.037(4) and 82.12.037, according to such rules as the department may prescribe.

**Sec.**  RCW 82.04.4285 and 2013 c 225 s 639 are each amended to read as follows:

In computing tax there may be deducted from ((~~the measure of tax so much~~)) gross income of the business the portion of the sale price of fuel ((~~as~~)) that constitutes the amount of tax imposed by the state under chapter 82.38 RCW or the United States government, under 26 U.S.C., Subtitle D, chapters 31 and 32, upon the sale thereof.

**Sec.**  RCW 82.04.4286 and 1980 c 37 s 7 are each amended to read as follows:

((~~In computing tax there may be deducted from the measure of tax amounts derived from business which~~)) This chapter does not apply to amounts received from business activity that the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

**Sec.**  RCW 82.04.4293 and 1980 c 37 s 13 are each amended to read as follows:

In computing tax there may be deducted from ((~~the measure of tax~~)) gross income of the business by those engaged in banking, loan, security, or other financial businesses, amounts ((~~derived~~)) received from interest paid on all obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof.

**Sec.**  RCW 82.04.4339 and 2021 c 143 s 1 are each amended to read as follows:

(1) In computing tax there may be deducted from the ((~~measure of tax~~)) gross income of the business amounts received by a nonprofit organization from the United States or any instrumentality thereof, the state of Washington or any municipal corporation or political subdivision thereof, or an Indian tribe as defined in RCW 43.06.523, as salmon recovery grants.

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

(a) "Nonprofit organization" has the same meaning as in RCW 82.04.3651.

(b) "Salmon recovery grant" means, solely for the purposes of this section, financial assistance provided to primarily benefit the public as a whole by renewing, restoring, or protecting, by human intervention, salmon ecosystems or salmon habitats in this state, whether or not such financial assistance furthers the regulatory activities of the grantor.

**Sec.**  RCW 82.04.440 and 2011 c 2 s 205 are each amended to read as follows:

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW ((~~82.04.230 through 82.04.298, inclusive,~~)) 82.04.261 is taxable under each provision applicable to those activities.

(2) Persons taxable under ((~~RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), (4), (11), or (12) with respect to selling products in this state, including those persons who are also taxable under~~)) RCW 82.04.261((~~,~~)) with respect to selling products at wholesale in this state are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit may not exceed the tax liability arising under ((~~this chapter~~)) RCW 82.04.261 with respect to the sale of those products.

(3) Persons taxable as manufacturers under ((~~RCW 82.04.240 or 82.04.260 (1)(b) or (12), including those persons who are also taxable under~~)) RCW 82.04.261((~~,~~)) are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under ((~~this chapter~~)) RCW 82.04.261 with respect to the manufacturing of those products.

(4) Persons taxable under ((~~RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (4), (11), or (12), including those persons who are also taxable under~~)) RCW 82.04.261((~~,~~)) with respect to extracting or manufacturing products in this state are allowed a credit against those taxes for any ((~~(i)~~)) (a) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, ((~~(ii)~~)) (b) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or ((~~(iii)~~)) (c) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under ((~~this chapter~~)) RCW 82.04.261 with respect to the extraction or manufacturing of those products.

(5) No application is required to claim credits under this section. Unused credit under this section may not be carried forward or backward and claimed for any tax reporting periods preceding or following the tax reporting period for which the credit is earned.

(6) For the purpose of this section, the definitions in this subsection apply:

(a) "Gross receipts tax" means a tax that:

(i) ((~~Which is~~)) Is imposed on or measured by ((~~the~~)) a taxpayer's gross volume of business, in terms of gross income, gross receipts, value of products, or in other terms, and in the determination of which the deductions allowed would not constitute the tax ((~~an~~)) a net income tax or value added tax; and

(ii) ((~~Which is~~)) Is also not, pursuant to law or custom, separately stated from the sales price on any document of sale provided to the customer.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed expressly on the act or privilege of engaging in business as a manufacturer, and includes ((~~(i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260 (1), (2), (4), (11), and (12), and 82.04.294(1); (ii)~~)) the tax imposed under RCW 82.04.261 on persons who are engaged in business as a manufacturer((~~;~~)) and ((~~(iii)~~)) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed expressly on the act or privilege of engaging in business as an extractor, and includes ((~~(i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260(12); (ii)~~)) the tax imposed under RCW 82.04.261 on persons who are engaged in business as an extractor((~~;~~)) and ((~~(iii)~~)) similar gross receipts taxes paid to other states.

(e) "Business," "manufacturer," "extractor," and other terms used in this section have the meanings given in RCW 82.04.020 through ((~~82.04.212 [82.04.217]~~)) 82.04.217, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

**Sec.**  RCW 82.04.4497 and 2021 c 196 s 16 are each amended to read as follows:

(1) To avoid taxing the same sale or exchange under both the ((~~business and occupation~~)) margin tax and capital gains tax, a ((~~credit~~)) deduction is allowed ((~~against taxes due under this chapter~~)) from gross income of the business in the amount of gain on a sale or exchange ((~~that is also subject to the tax imposed under RCW 82.87.040. The credit is equal to the amount of tax imposed under this chapter on such sale or exchange~~)) of long-term capital assets by a taxpayer if:

(a) The sale or exchange is subject to tax under this chapter and the tax imposed under RCW 82.87.040;

(b) The gain is included in the Washington capital gains of the taxpayer or a legal or beneficial owner of the taxpayer; and

(c) The taxpayer or a legal or beneficial owner of the taxpayer has paid the tax imposed under RCW 82.87.040 with respect to the Washington capital gains.

(2) ((~~The credit may be used against any tax due under this chapter~~)) For purposes of this section, where a taxpayer is a combined group, a legal or beneficial owner of the taxpayer means a legal or beneficial owner of any member of the combined group.

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

~~(4) The department must apply the credit first to taxes deposited into the general fund. If any remaining credit reduces the amount of taxes deposited into the workforce education investment account established in RCW 43.79.195, the department must notify the state treasurer of such amounts monthly, and the state treasurer must transfer those amounts from the general fund to the workforce education investment account~~)) The department may require this deduction be claimed on an amended return if, at the time the original return under this chapter is due, the tax imposed under RCW 82.87.040 has not been paid as required by subsection (1)(b) of this section.

**Sec.**  RCW 82.04.4499 and 2022 c 189 s 2 are each amended to read as follows:

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a ((~~person~~)) taxpayer to the equitable access to credit program created in chapter 43.390 RCW.

(2)(a) The ((~~person~~)) taxpayer must make the contribution before claiming a credit authorized under this section. The credit may be used against any tax due under this chapter. The amount of the credit claimed for a reporting period may not exceed the tax otherwise due under this chapter for that reporting period. No ((~~person~~)) taxpayer may claim more than $1,000,000 of credit ((~~in~~)) for any ((~~calendar~~)) tax year, including credit carried over from a previous ((~~calendar~~)) tax year. No refunds may be granted for any unused credits.

(b) Any amount of tax credit otherwise allowable under this section not claimed by the ((~~person~~)) taxpayer in any ((~~calendar year~~)) tax year, including unused credit remaining as of June 30, 2027, may be carried forward and claimed against a ((~~person's~~)) taxpayer's tax liability for the next succeeding ((~~calendar~~)) tax year; and any credit not used in that next succeeding ((~~calendar~~)) tax year may be carried forward and claimed against the ((~~person's~~)) taxpayer's tax liability for the second succeeding ((~~calendar~~)) tax year, but may not be carried over for any ((~~calendar~~)) tax year thereafter. Credit under this section may not be carried back and claimed for tax years ending before the credit under this section is earned.

(3) Credits are available on a first-in-time basis. The department must disallow any credits, or portions thereof, that would cause the total amount of credits claimed under this section for any ((~~calendar~~)) tax year to exceed $8,000,000. If this limitation is reached, the department must notify the department of commerce that the annual statewide limit has been met. In addition, the department must provide written notice to any ((~~person~~)) taxpayer who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide the tax be paid within 30 days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(4) To claim a credit under this section, a ((~~person~~)) taxpayer must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(5) No application is necessary for the tax credit. The ((~~person~~)) taxpayer must keep records necessary for the department to verify eligibility under this section.

(6) The equitable access to credit program must provide to the department, upon request, such information as may be needed to verify eligibility for credit under this section, including information regarding contributions received by the program.

(7) The maximum credit that may be earned for each ((~~calendar~~)) tax year under this section for a ((~~person~~)) taxpayer is limited to the lesser of $1,000,000 or an amount equal to 100 percent of the contributions made by the ((~~person~~)) taxpayer to the equitable access to credit program during the tax year.

(8) No credit may be earned for contributions made on or after June 30, 2027. Credits may be claimed as provided in subsections (2) through (4) of this section; however, credits may not be claimed prior to January 1, 2023.

(9) For the purposes of this section, "equitable access to credit program" means a program established within the department of commerce pursuant to RCW 43.390.020.

(10) The provisions of chapter 82.32 RCW apply to the administration of this section.

(11) This section expires July 1, 2027.

**Sec.**  RCW 82.04.615 and 2007 c 381 s 1 are each amended to read as follows:

This chapter does not apply to public corporations, commissions, or authorities created under RCW 35.21.660 or 35.21.730 for amounts ((~~derived~~)) received from sales of tangible personal property and services to:

(1) A limited liability company in which the corporation, commission, or authority is the managing member;

(2) A limited partnership in which the corporation, commission, or authority is the general partner; or

(3) A single asset entity required under any federal, state, or local governmental housing assistance program, which is controlled directly or indirectly by the corporation, commission, or authority.

**Sec.**  RCW 82.04.767 and 2021 c 4 s 1 are each amended to read as follows:

(1) This chapter does not apply to ((~~any person with respect to~~)) amounts received from the value proceeding or accruing from a qualifying grant received on or after February 29, 2020.

(2) For purposes of this section, "qualifying grant" means an amount received, or relief from debt or other legal obligation received, that:

(a) Is received under a government-funded program either directly from a government entity, or through a nongovernmental third-party entity authorized by a government entity to distribute the program funds, or, in the case of relief from debt or other legal obligation, is received from a private entity under circumstances where, in exchange for providing the relief, the private entity receives some form of direct financial benefit from a government entity;

(b) Is provided to address the impacts of conditions giving rise to an official proclamation of a national emergency by the president of the United States or an official proclamation of a state of emergency by the governor of this state; and

(c) Is not an amount received:

(i) Under a contract, including a sole source contract, for the acquisition of specific goods or services, or both, by purchase, lease, or barter, that was solicited and established in accordance with procurement laws or regulations; or

(ii) For manufacturing, extracting, or making sales of products, when the amount received is determined based on the quantity of products manufactured, extracted, or sold. ((~~For purposes of this subsection (2)(c)(ii), "products" has the same meaning as in RCW 82.32.023.~~))

(3) For purposes of a grant awarded to address the impacts of conditions giving rise to a national emergency or state of emergency, the exemption under this section applies only if the legislation authorizing the grant or the associated legislative history, public records created by the grantor, or the terms of the underlying grant agreement between the grantor and grantee, clearly indicate that the grant was established to address the impacts of conditions giving rise to a national emergency or state of emergency.

(4) Businesses may include:

(a) As a cost input under section 204 of this act any expense paid using qualifying grant proceeds to the extent the expense is otherwise includable as a cost input under that section; and

(b) As compensation under section 205 of this act any amount paid using qualifying grant proceeds to the extent the amount is otherwise includable as compensation under that section

(5) For purposes of this section, "government" means any national, tribal, state, or local government.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

CREDIT—RETAIL SALES TAX COLLECTED AND REMITTED BY RETAILERS.

(1) A taxpayer that both collects and timely remits to the department the retail sales tax imposed under RCW 82.08.020(1) is allowed a credit against those taxes. The amount of the credit earned for a tax reporting period is equal to 0.2528 percent of the total amount of retail sales tax imposed in RCW 82.08.020(1) and properly collected and remitted by the taxpayer to the department by the due date of the tax return for that tax reporting period or any extension of the due date granted by the department. For purposes of this subsection (1), a taxpayer that remits the tax imposed in RCW 82.08.020(1) after the due date has remitted the tax by the due date if the department waives or cancels the penalty associated with the delinquency as authorized by chapter 82.32 RCW.

(2) The credit under this section may not exceed the taxes otherwise due under RCW 82.08.020(1). Any unused credit may not be carried forward or backward to a different tax reporting period.

**PART IV**

**SURCHARGES**

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

SURCHARGES.

(1) The surcharges imposed in RCW 82.04.261 through 82.04.299 are in addition to the margin tax imposed under section 202 of this act.

(2) Each person with a substantial nexus with this state under RCW 82.04.067 and engaging within this state in any business activity for which a surcharge is imposed under this chapter is subject to the applicable surcharge or surcharges, regardless of whether the person is subject to the margin tax imposed in section 202 of this act or is part of a combined group subject to the margin tax imposed in section 202 of this act.

(3) Persons subject to the surcharges referenced in subsection (1) of this section must file and pay the surcharges in a form and manner prescribed by the department as provided in RCW 82.32.045.

**Sec.**  RCW 82.04.261 and 2021 c 145 s 8 are each amended to read as follows:

(1) ((~~In addition to the taxes imposed under RCW 82.04.260(12), a~~)) A surcharge is imposed on those persons who are ((~~subject to any of the taxes imposed under RCW 82.04.260(12). Except as otherwise provided in this section, the surcharge is equal to~~)) engaged in the business of:

(a) Operating as an extractor of timber;

(b) Extracting timber for hire;

(c) Operating as a manufacturer of: (i) Timber into timber products or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1);

(d) Processing for hire: (i) Timber into timber products or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1);

(e) Selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person; or

(f) Selling standing timber.

(2) The surcharge equals the person's taxable amount for all activities described in subsection (1) of this section that the person engages in, multiplied by the rate of 0.052 percent. ((~~The surcharge is added to the rates provided in RCW 82.04.260(12) (a), (b), (c), and (d).~~

~~(2)~~)) (3) All receipts from the surcharge imposed under this section must be deposited into the forest and fish support account created in RCW 76.09.405, with any receipts above eight million dollars per biennium specifically used as additional funding for tribal participation grants.

((~~(3)~~)) (4)(a) The surcharge imposed under this section is suspended if:

(i) ((~~Before July 1, 2024, receipts from the surcharge total at least eight million five hundred thousand dollars during any fiscal biennium;~~

~~(ii)~~)) Between July 1, 2024, through June 30, 2029, receipts from the surcharge total at least nine million dollars during any fiscal biennium; and

((~~(iii)~~)) (ii) After June 30, 2029, the receipts from the surcharge total at least nine million five hundred thousand dollars during any fiscal biennium.

(b) The suspension of the surcharge under this subsection ((~~(3)~~)) (4) takes effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge total the values specified in this subsection ((~~(3)~~)) (4) during the fiscal biennium. The surcharge is imposed again at the beginning of the following fiscal biennium.

((~~(4)~~)) (5) For purposes of this section, the definitions in this subsection apply:

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

(b) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(c) "Recycled paper" means paper and paper products having 50 percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (5)(c), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(d) "Taxable amount" means:

(i) Gross income of the business, with regard to the business activities described in subsection (1)(b), (d), and (f) of this section;

(ii) Value of products, including byproducts, extracted or manufactured, with regard to the business activities described in subsection (1)(a) and (c) of this section; and

(iii) Gross proceeds of sales, with regard to the products described in subsection (1)(e) of this section.

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

(f) "Timber products" means:

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

(ii) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

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

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

(6) This section expires July 1, 2045.

**Sec.**  RCW 82.04.285 and 2014 c 97 s 303 are each amended to read as follows:

(1) ((~~Upon~~)) A surcharge is imposed upon every person engaging within this state in the business of operating contests of chance((~~; as to such persons, the amount of tax with respect to the business of operating contests of chance~~)). The amount of the surcharge is equal to the gross income of the business ((~~derived~~)) received from operating contests of chance multiplied by the rate of ((~~1.5 percent.~~

~~(2) An additional tax is imposed on those persons subject to tax in subsection (1) of this section. The amount of the additional tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of 0.1 percent through June 30, 2006, and~~)) 0.13 percent ((~~thereafter~~)). The money collected under this ((~~subsection (2) shall~~)) section must be deposited in the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751. This ((~~subsection~~)) section does not apply to businesses operating contests of chance when the gross income from the operation of contests of chance is less than fifty thousand dollars per year.

((~~(3)~~)) (2)(a) For the purpose of this section, "contests of chance" means any contests, games, gaming schemes, or gaming devices, other than the state lottery as defined in RCW 67.70.010, in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor in the outcome. The term includes social card games, bingo, raffle, and punchboard games, and pull-tabs as defined in chapter 9.46 RCW.

(b) ((~~The term~~)) "Contests of chance" does not include: (i) Race meet for the conduct of which a license must be secured from the Washington horse racing commission, (ii) "amusement game" as defined in RCW 9.46.0201, or (iii) any activity that is not subject to regulation by the gambling commission.

((~~(4) "Gross income of the business" does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes.~~))

**Sec.**  RCW 82.04.286 and 2005 c 369 s 6 are each amended to read as follows:

(1) ((~~Upon~~)) A surcharge is imposed upon every person engaging within this state in the business of conducting race meets for the conduct of which a license must be secured from the Washington horse racing commission((~~; as to such persons, the amount of tax with respect to the business of parimutuel wagering~~)). The surcharge is equal to the gross income of the business ((~~derived~~)) received from parimutuel wagering multiplied by the rate of ((~~0.1 percent through June 30, 2006, and~~)) 0.13 percent ((~~thereafter~~)). The money collected under this section shall be deposited in the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751.

(2) ((~~For purposes of this section, "gross income of the business" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW.~~

~~(3)~~)) The tax imposed under this section is in addition to any tax imposed under chapter 67.16 RCW.

**Sec.**  RCW 82.04.29004 and 2019 c 420 s 2 are each amended to read as follows:

(1) ((~~Beginning January 1, 2020, in~~)) In addition to any other taxes imposed under this chapter, ((~~an additional tax~~)) a surcharge is imposed on specified financial institutions. The ((~~additional tax~~)) surcharge is equal to the gross income of the business taxable under RCW 82.04.290((~~(2)~~)) multiplied by the rate of 1.2 percent.

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

(a) ((~~"Affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person. For purposes of this subsection (2)(a), "control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.~~

~~(b)~~)) "Consolidated financial institution group" means all financial institutions that are affiliated with each other.

((~~(c)~~)) (b) "Consolidated financial statement" means a consolidated financial institution group's consolidated reports of condition and income filed with the federal financial institutions examination council, or successor agency.

((~~(d)~~)) (c) "Financial institution" means any person that is:

(i) ((~~Any~~)) A corporation or other business entity chartered under Titles 30A, 30B, 31, 32, and 33 RCW, or registered under the federal bank holding company act of 1956, as amended, or registered as a savings and loan holding company under the federal national housing act, as amended;

(ii) A national bank organized and existing as a national bank association pursuant to the provisions of the national bank act, 12 U.S.C. Sec. 21 et seq.;

(iii) A savings association or federal savings bank as defined in the federal deposit insurance act, 12 U.S.C. Sec. 1813(b)(1);

(iv) ((~~Any~~)) A bank or thrift institution incorporated or organized under the laws of any state;

(v) ((~~Any~~)) A corporation organized under the provisions of 12 U.S.C. Sec. 611 through 631;

(vi) ((~~Any~~)) An agency or branch of a foreign depository as defined in 12 U.S.C. Sec. 3101 that is not ((~~exempt under RCW 82.04.315~~)) an international banking facility. For purposes of this subsection (2)(c)(vi), "international banking facility" means a facility represented by a set of asset and liability accounts segregated on the books and records of a commercial bank, the principal office of which is located in this state, and which is incorporated and doing business under the laws of the United States or of this state, a United States branch or agency of a foreign bank, an edge corporation organized under section 25(a) of the Federal Reserve Act, 12 U.S.C. Sec. 611-631, or an agreement corporation having an agreement or undertaking with the board of governors of the federal reserve system under section 25 of the Federal Reserve Act, 12 U.S.C. 601-604a, that includes only international banking facility time deposits (as defined in subsection (a)(2) of Section 204.8 of Regulation D (12 C.F.R. Part 204), as promulgated by the board of governors of the federal reserve system), and international banking facility extensions of credit (as defined in subsection (a)(3) of section 204.8 of Regulation D);

(vii) A production credit association organized under the federal farm credit act of 1933, all of whose stock held by the federal production credit corporation has been retired;

(viii) ((~~Any~~)) A corporation or other business entity who receives gross income taxable under RCW 82.04.290, and whose voting interests are more than fifty percent owned, directly or indirectly, by any person or business entity described in ((~~(d)~~)) (c)(i) through (vii) of this subsection other than an insurance company liable for the insurance premiums tax under RCW 48.14.020 or any other company taxable under chapter 48.14 RCW;

(ix)(A) A corporation or other business entity that receives more than fifty percent of its total gross income for federal income tax purposes from finance leases. For purposes of this subsection, a "finance lease" means a lease that meets two requirements:

(I) It is the type of lease permitted to be made by national banks (see 12 U.S.C. Sec. 24(7) and (10), comptroller of the currency regulations, part 23, leasing (added by 56 C.F.R. Sec. 28314, June 20, 1991, effective July 22, 1991), and regulation Y of the federal reserve system 12 C.F.R. Part 225.25, as amended); and

(II) It is the economic equivalent of an extension of credit, i.e., the lease is treated by the lessor as a loan for federal income tax purposes. In no event does a lease qualify as an extension of credit where the lessor takes depreciation on such property for federal income tax purposes.

(B) For this classification to apply, the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than fifty percent requirement;

(x) Any other person or business entity, other than an insurance general agent ((~~taxable~~)) licensed under chapter 48.17 RCW ((~~82.04.280(1)(e)~~)), an insurance business exempt from the ((~~business and occupation~~)) margin tax under RCW 82.04.320, a ((~~real estate~~)) broker ((~~taxable under RCW 82.04.255~~)) as defined in RCW 18.85.011, a securities dealer or international investment management company taxable under RCW 82.04.290((~~(2)~~)), that receives more than fifty percent of its gross receipts from activities that a person described in ((~~(d)~~)) (c)(ii) through (vii) and (ix) of this subsection is authorized to transact.

((~~(e)~~)) (d)(i) "Specified financial institution" means a financial institution that is a member of a consolidated financial institution group that reported on its consolidated financial statement for the previous calendar year annual net income of at least one billion dollars, not including net income attributable to noncontrolling interests, as the terms "net income" and "noncontrolling interest" are used in the consolidated financial statement.

(ii) If financial institutions are no longer required to file consolidated financial statements, "specified financial institution" means any person that was subject to the additional tax in this section in at least two of the previous four calendar years.

(3) The department must notify the fiscal committees of the legislature if financial institutions are no longer required to file consolidated financial statements.

(4) To aid in the effective administration of the ((~~additional tax~~)) surcharge imposed in this section, the department may require a person believed to be a specified financial institution to disclose whether it is a member of a consolidated financial institution group and, if so, to identify all other members of its consolidated financial institution group. A person failing to comply with this subsection is deemed to have intended to evade tax payable under this section and is subject to the penalty in RCW 82.32.090(7) on any tax due under this section by the person and any financial institution affiliated with the person.

(5) Taxes collected under this section must be deposited into the general fund.

**Sec.**  RCW 82.04.290 and 2020 c 2 s 3 are each amended to read as follows:

(1) ((~~Upon every person engaging within this state in the business of providing qualifying international investment management services, as to such persons, the amount of tax with respect to such business is equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.~~

~~(2)(a) Upon~~)) A surcharge is imposed upon every person engaging within this state in any business activity other than ((~~or in addition to an activity taxed explicitly under another section in this chapter or subsection (1) or (3) of this section; as to such persons the amount of tax on account of such activities~~)) those persons and business activities specifically exempted under this section from the surcharge. This surcharge is equal to the gross income of the business multiplied by the rate of((~~:~~

~~(i) 1.75 percent; or~~

~~(ii) 1.5 percent for:~~

~~(A)~~)) 0.25 percent. Except as otherwise provided in this section, this surcharge is in addition to all other taxes imposed in this chapter.

(2) The surcharge imposed in this section does not apply to:

(a) Any person subject to the surcharge imposed under RCW 82.04.299;

((~~(B)~~)) (v) Any person whose gross income of the business subject to the ((~~tax~~)) surcharge imposed under ((~~this~~)) subsection ((~~(2)~~)) (1) of this section, for the immediately preceding calendar year, was less than one million dollars, unless ((~~(I)~~)) (i) the person is affiliated with one or more other persons, and ((~~(II)~~)) (ii) the aggregate gross income of the business subject to the ((~~tax~~)) surcharge imposed under ((~~this~~)) subsection ((~~(2)~~)) (1) of this section for all affiliated persons was greater than or equal to one million dollars for the immediately preceding calendar year; ((~~and~~

~~(C)~~)) (c) Hospitals as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW((~~. This subsection (2)(a)(ii)(C) must not be construed as modifying RCW 82.04.260(10)~~)); or

(d) Any business activity that, as of December 31, 2026, is not taxed under the catchall service and other activities classification. For purposes of this subsection (2)(d), "catchall service and other activities classification" means the tax classification codified in this section or successor statute that is applicable to all business activities not otherwise taxed explicitly under another provision of this chapter as of December 31, 2026.

((~~(b) This~~)) (3) The tax imposed in subsection ((~~(2)~~)) (1) of this section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his or her principal or supplier to be used for informational, educational, and promotional purposes is not considered a part of the agent's remuneration or commission and is not subject to taxation under this section.

((~~(c) 14.3 percent~~)) (4) All of the revenues collected under ((~~(a)(i) of this~~)) subsection ((~~(2)~~)) (1) of this section must be deposited into the workforce education investment account created in RCW 43.79.195.

((~~(d)(i) To aid in the effective administration of this subsection (2), the department may require a person claiming to be subject to the 1.5 percent tax rate under (a)(ii)(B) of this subsection (2) to identify all of the person's affiliates, including their department tax registration number or unified business identifier number, as may be applicable, or to certify that the person is not affiliated with any other person. Requests under this subsection (2)(d)(i) must be in writing and may be made electronically.~~

~~(ii) If the department establishes, by clear, cogent, and convincing evidence, that a person, with intent to evade the additional taxes due under the 1.75 percent tax rate in (a)(i) of this subsection (2), failed to provide the department with complete and accurate information in response to a written request under (d)(i) of this subsection (2) within thirty days of such request, the person is ineligible for the 1.5 percent tax rate in (a)(ii) of this subsection (2) for the entire current calendar year and the following four calendar years. However, the department must waive the provisions of this subsection (2)(d)(ii) for any tax reporting period that the person is otherwise eligible for the 1.5 percent tax rate in (a)(ii) of this subsection (2) if (A) the department has not previously determined that the person failed to fully comply with (d)(i) of this subsection (2), and (B) within thirty days of the notice of additional tax due as a result of the person's failure to fully comply with (d)(i) of this subsection (2) the department determines that the person has come into full compliance with (d)(i) of this subsection (2). This subsection (2)(d) applies only with respect to persons claiming entitlement to the 1.5 percent tax rate solely by reason of (a)(ii)(B) of this subsection (2).~~

~~(e) For the purposes of (a)(ii)(B) of this subsection (2), if a taxpayer is subject to the reconciliation provisions of RCW 82.04.462(4), and calculates gross income of the business subject to the tax imposed under this subsection (2) for the immediately preceding calendar year, or aggregate gross income of the business subject to the tax imposed under this subsection (2) for the immediately preceding calendar year for all affiliated persons, based on incomplete information, the taxpayer must correct the reporting for the current calendar year when complete information for the immediately preceding calendar year is available.~~

~~(f) For purposes of this subsection (2), the definitions in this subsection (2)(f) apply:~~

~~(i) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person; and~~

~~(ii) "Control" means the possession, directly or indirectly, of more than eighty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.~~

~~(3)(a) Until July 1, 2040, upon every person engaging within this state in the business of performing aerospace product development for others, as to such persons, the amount of tax with respect to such business is equal to the gross income of the business multiplied by a rate of 0.9 percent.~~

~~(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.534.~~

~~(c) "Aerospace product development" has the meaning as provided in RCW 82.04.4461.~~))

**Sec.**  RCW 82.04.299 and 2022 c 170 s 1 and 2022 c 56 s 4 are each reenacted and amended to read as follows:

(1)(a) Beginning with business activities occurring on or after April 1, 2020, in addition to the taxes imposed under RCW 82.04.290((~~(2)~~)) and section 202 of this act, a workforce education investment surcharge is imposed on select advanced computing businesses. The surcharge is equal to the gross income of the business subject to the tax under RCW 82.04.290((~~(2)~~)), multiplied by the rate of 1.22 percent.

(b) Except as provided in ((~~(e)~~)) (d) of this subsection (1), in no case will the combined surcharge imposed under this subsection (1) paid by all members of an affiliated group be more than nine million dollars annually.

(c) ((~~For persons subject to the surcharge imposed under this subsection (1) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).~~

~~(d)~~)) The surcharge imposed under this subsection (1) must be reported and paid on a quarterly basis in a manner as required by the department. Returns and amounts payable under this subsection (1) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

((~~(e)~~)) (d)(i) To aid in the effective administration of the surcharge in this subsection (1), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that one or more members of an affiliated group, with intent to evade the surcharge under this subsection (1), failed to fully comply with this subsection (1)((~~(e)~~)) (d), the department must assess against that person, or those persons collectively, a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or persons failed to fully comply with this subsection (1)((~~(e)~~)) (d). The penalty under this subsection (1)((~~(e)~~)) (d) is in lieu of and not in addition to the evasion penalty under RCW 82.32.090(7).

((~~(f)~~)) (e) For the purposes of this subsection (1) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including: Modifications to computer software or computer hardware; cloud computing services; or operating as a marketplace facilitator as defined by RCW 82.08.0531, an online search engine, or online social networking platform;

(ii) ((~~"Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;~~

~~(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;~~

~~(iv)~~)) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

((~~(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise;~~)) and

((~~(vi)~~)) (iii) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business. A person that is primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020, shall not be considered a select advanced computing business. For purposes of this subsection (1)((~~(f)(vi)~~)) (e)(iii), "primarily" is determined based on gross income of the business.

(2)(a) The workforce education investment surcharge under this section does not apply to:

(i) Any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW; or

(ii) A provider clinic offering primary care, multispecialty and surgical services, including behavioral health services, and any affiliate of the provider clinic if the affiliate is an organization that offers health care services or provides administrative support for a provider clinic, or is an independent practice association or accountable care organization.

(b) The exemptions under this subsection (2) do not apply to amounts received by any member of an affiliated group other than the businesses described in (a) of this subsection.

(c) For purposes of the exemption in (a)(ii) of this subsection:

(i) "Health care services" means services offered by health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(ii) "Primary care" means wellness and prevention services and the diagnosis and treatment of health conditions.

(3) Revenues from the surcharge under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

(4) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharge imposed in this section.

**PART V**

**REPORTING AND PAYMENT OF MARGIN TAX AND SURCHARGES—PENALTIES AND INTEREST**

**Sec.**  RCW 82.04.510 and 1961 c 15 s 82.04.510 are each amended to read as follows:

All of the provisions contained in chapter 82.32 RCW shall have full force and application with respect to taxes imposed under the provisions of this chapter. Taxpayers submitting ((~~monthly~~)) quarterly estimates of taxes due under ((~~this chapter shall be~~)) section 202 of this act are subject to the provisions of chapter 82.32 RCW ((~~if they fail to remit ninety percent of the taxes actually collected or due for the reporting period~~)) for any estimated payment that is substantially underpaid as provided in RCW 82.32.090(2) or not paid by the date due.

**Sec.**  RCW 82.32.045 and 2022 c 295 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this ((~~chapter and subsection (6) of this section~~)) title, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur. For taxpayers subject to the taxes imposed in section 202 of this act, reports and returns for those taxes are due annually as provided in subsection (3) of this section.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. Except as provided in subsection (3) of this section, for these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3)(a) For annual filers, tax payments, along with reports and returns on forms prescribed by the department, are due on or before April 15th of the year immediately following the end of the period covered by the return.

(b) For taxpayers subject to the margin tax under section 202 of this act:

(i) Reports and returns on forms prescribed by the department are due annually on or before April 15th of the year immediately following the end of the tax year covered by the return.

(ii) Estimated margin tax payments must be made for a tax year by taxpayers that owed $20,000 or more in the immediately preceding tax year or will owe $20,000 or more in tax due under section 202 of this act for that tax year.

(A) Estimated margin tax payments required in this subsection (3) are due quarterly on or before the last day of the month immediately following the end of the calendar quarter.

(B) For taxpayers that were engaged in business in this state during the entire immediately preceding tax year and filed a tax return for that tax year for taxes due under section 202 of this act, each estimated margin tax payment equals 25 percent of the taxpayer's total tax liability on that return. Upon a taxpayer's request, the department may allow a taxpayer to calculate its own estimated payment amount if the taxpayer certifies that it expects that its tax due under section 202 of this act for the current tax year to be at least 20 percent greater or less than its tax due under section 202 of this act for the previous tax year.

(C) For the first tax year of margin taxes due under section 202 of this act, or for taxpayers who were not engaged in business in this state during the entire immediately preceding tax year or who did not file a return for taxes due under section 202 of this act for that tax year, estimated payments equal 25 percent of the estimated tax liability under section 202 of this act for the current tax year as determined by the taxpayer.

(D) At least 30 days before estimated payments are due, the department must electronically notify registered taxpayers of their responsibility for making an estimated payment, the due date of the estimated payment, and, as applicable, the amount of estimated payment due.

(E) A taxpayer that does not make an estimated payment under this subsection (3)(b) by the date due or that substantially underpays their estimated payment is subject to applicable penalties under RCW 82.32.090.

(F) Any additional taxes due under section 202 of this act must be paid with the annual return due April 15th. If the tax due is overpaid, the department must issue a refund in accordance with RCW 82.32.060.

(iii) This subsection (3)(b) does not apply to the surcharges in RCW 82.04.261, 82.04.285, 82.04.286, 82.04.290, 82.04.29004, and 82.04.299. Returns and payments for these surcharges must be reported and paid as otherwise provided in this section and, in the case of the surcharge on select advanced computing businesses, RCW 82.04.299.

(4) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(5) Notwithstanding subsections (1) and (2) of this section, the department may relieve any ((~~person~~)) taxpayer of the requirement to file returns if the following conditions are met:

(a) The ((~~person's~~)) taxpayer's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than ((~~$125,000~~)) $500,000 per year;

(b) The ((~~person's~~)) taxpayer's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per tax year; and

(c) The ((~~person~~)) taxpayer is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

(6)(a) Taxes imposed under chapter 82.08 or 82.12 RCW on taxable events that occur beginning January 1, 2019, through June 30, 2019, and payable by a consumer directly to the department are due, on returns prescribed by the department, by July 25, 2019.

(b) This subsection (6) does not apply to the reporting and payment of taxes imposed under chapters 82.08 and 82.12 RCW:

(i) On the retail sale or use of motor vehicles, vessels, or aircraft; or

(ii) By consumers who are engaged in business, unless the department has relieved the consumer of the requirement to file returns pursuant to subsection (5) of this section.

**Sec.**  RCW 82.32.057 and 2022 c 282 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, interest applies to taxes that are not paid by the original due date even though the department has granted an extension as authorized under this chapter. However, the department may not assess penalties for late payment of any such tax that is paid in full by the extended due date.

(2) For purposes of this section, "taxes" includes estimated taxes due under RCW 82.32.045.

**Sec.**  RCW 82.32.090 and 2015 3rd sp.s. c 5 s 401 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there is assessed a penalty of nine percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there is assessed a total penalty of nineteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there is assessed a total penalty of twenty-nine percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars.

(2) If the department of revenue determines that any tax or estimated tax payment due under RCW 82.32.045 has been substantially underpaid, there is assessed a penalty of five percent of the amount of the tax determined by the department to be due. If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, including any estimated payment due under RCW 82.32.045 and billed to the taxpayer by the department, there is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment of any tax determined by the department to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, including any estimated payment due under RCW 82.32.045 and billed to the taxpayer by the department, there is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least one thousand dollars. In the case of an estimated payment due under RCW 82.32.045, "substantially underpaid" means that the taxpayer has paid less than 90 percent of the amount of estimated payment billed to the taxpayer, or when the taxpayer calculates the amount of its estimated payments, the aggregate amount of estimated payments for the tax year is less than 90 percent of the taxpayer's actual tax liability under section 202 of this act for that tax year.

(3) If a warrant is issued by the department of revenue for the collection of taxes, increases, and penalties, there is added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a ((~~person~~)) taxpayer has engaged in any business or performed any act upon which a tax is imposed under this title and that ((~~person~~)) taxpayer has not obtained from the department a registration certificate as required by RCW 82.32.030, the department must impose a penalty of five percent of the amount of tax due from that ((~~person~~)) taxpayer for the period that the ((~~person~~)) taxpayer was not registered as required by RCW 82.32.030. The department may not impose the penalty under this subsection (4) if a ((~~person~~)) taxpayer who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that a taxpayer has disregarded specific written instructions as to reporting or tax liabilities, or willfully disregarded the requirement to file returns or remit payment electronically, as provided by RCW 82.32.080, the department must add a penalty of ten percent of the amount of the tax that should have been reported and/or paid electronically or the additional tax found due if there is a deficiency because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless, in the case of a deficiency, the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. A taxpayer will be considered to have made a good faith effort to comply with specific written instructions to file returns and/or remit taxes electronically only if the taxpayer can show good cause, as defined in RCW 82.32.080, for the failure to comply with such instructions. A taxpayer will be considered to have willfully disregarded the requirement to file returns or remit payment electronically if the department has mailed or otherwise delivered the specific written instructions to the taxpayer on at least two occasions. Specific written instructions may be given as a part of a tax assessment, audit, determination, closing agreement, or other written communication, provided that such specific written instructions apply only to the taxpayer addressed or referenced on such communication. Any specific written instructions by the department must be clearly identified as such and must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection. If the department determines that it is necessary to provide specific written instructions to a taxpayer that does not comply with the requirement to file returns or remit payment electronically as provided in RCW 82.32.080, the specific written instructions must provide the taxpayer with a minimum of forty-five days to come into compliance with its electronic filing and/or payment obligations before the department may impose the penalty authorized in this subsection.

(6) If the department finds that all or any part of a deficiency resulted from engaging in a disregarded transaction, as described in RCW 82.32.655(3), the department must assess a penalty of thirty-five percent of the additional tax found to be due as a result of engaging in a transaction disregarded by the department under RCW 82.32.655(2). The penalty provided in this subsection may be assessed together with any other applicable penalties provided in this section on the same tax found to be due, except for the evasion penalty provided in subsection (7) of this section. The department may not assess the penalty under this subsection if, before the department discovers the taxpayer's use of a transaction described under RCW 82.32.655(3), the taxpayer discloses its participation in the transaction to the department.

(7) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due must be added.

(8) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

(9) The department may not impose the evasion penalty in combination with the penalty for disregarding specific written instructions or the penalty provided in subsection (6) of this section on the same tax found to be due.

(10) For the purposes of this section, "return" means any document a ((~~person~~)) taxpayer is required by the state of Washington to file, whether by paper or electronically, to satisfy or establish a tax or fee obligation that is administered or collected by the department, and that has a statutorily defined due date. "Return" includes any form a taxpayer must file to report an estimated margin tax payment as calculated by the taxpayer pursuant to RCW 82.32.045.

**PART VI**

**CONFORMING AMENDMENTS**

**Sec.**  RCW 9.41.100 and 1994 sp.s. c 7 s 415 are each amended to read as follows:

Every dealer shall be licensed as provided in RCW 9.41.110 and shall register with the department of revenue as provided in chapter((~~s 82.04 and~~)) 82.32 RCW.

**Sec.**  RCW 9.46.071 and 2019 c 213 s 1 are each amended to read as follows:

(1)(a) The legislature recognizes that some individuals in this state have a gambling problem or gambling disorder. Because the state promotes and regulates gambling through the activities of the state lottery commission, the Washington horse racing commission, and the Washington state gambling commission, the state has the responsibility to continue to provide resources for the support of services for problem gambling and gambling disorders.

(b) The Washington state gambling commission, the Washington horse racing commission, and the state lottery commission shall jointly develop problem gambling and gambling disorder informational signs which include a toll-free hotline number for individuals with a gambling problem or gambling disorder. The signs shall be placed in the establishments of gambling licensees, horse racing licensees, and lottery retailers.

(c) The Washington state gambling commission, the Washington horse racing commission, and the state lottery commission may also contract with other qualified entities to provide public awareness, training, and other services to ensure the intent of this section is fulfilled.

(d) Individuals and families impacted by a gambling problem or gambling disorder will benefit from the availability of a uniform self-exclusion program where people may voluntarily exclude themselves from gambling at multiple gambling establishments by submitting one self-exclusion form to the state from one location for all gambling activities. Therefore, the Washington state gambling commission must establish a statewide self-exclusion program for all licensees. The commission has discretion in establishing the scope, process, and requirements of the self-exclusion program, including denying, suspending, or revoking an application, license, or permit. However, the initial program must comply with the following minimum requirements:

(i) The program must allow persons to voluntarily exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games;

(ii) The program must have a process for federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts to voluntarily participate in the self-exclusion program;

(iii) Any individual registered with the self-exclusion program created under this section is prohibited from participating in gambling activities associated with this program and forfeits all moneys and things of value obtained by the individual or owed to the individual by an authorized gambling establishment as a result of prohibited wagers or gambling activities. The commission may adopt rules for the forfeiture of any moneys or things of value, including wagers, obtained by an authorized gambling establishment while an individual is registered with the self-exclusion program created under this section.

Moneys and things of value forfeited under the self-exclusion program must be distributed to the problem gambling account created in RCW 41.05.751 and/or a charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling pursuant to rules adopted by the commission; and

(iv) The commission must adopt rules establishing the self-exclusion program by June 30, 2021.

(e) An individual who participates in the self-exclusion program does not have a cause of action against the state of Washington, the commission, or any gambling establishment, its employees, or officers for any acts or omissions in processing or enforcing the requirements of the self-exclusion program, including a failure to prevent an individual from gambling at an authorized gambling establishment.

(f) Any personal information collected, stored, or accessed under the self-exclusion program may only be used for the administration of the self-exclusion program and may not be disseminated for any purpose other than the administration of the self-exclusion program.

(2)(a) During any period in which RCW 82.04.285((~~(2)~~)) is in effect, the commission may not increase fees payable by licensees under its jurisdiction for the purpose of funding services for problem gambling and gambling disorder. Any fee imposed or increased by the commission, for the purpose of funding these services, before July 1, 2005, has no force and effect after July 1, 2005.

(b) During any period in which RCW 82.04.285((~~(2)~~)) is not in effect:

(i) The commission, the Washington state horse racing commission, and the state lottery commission may contract for services, in addition to those authorized in subsection (1) of this section, to assist in providing for problem gambling and gambling disorder treatment; and

(ii) The commission may increase fees payable by licensees under its jurisdiction for the purpose of funding the problem gambling and gambling disorder services authorized in this section.

**Sec.**  RCW 9.91.180 and 2003 c 365 s 2 are each amended to read as follows:

(1) A person who sells, rents, or permits to be sold or rented, any video or computer game they know to be a violent video or computer game to any minor has committed a class 1 civil infraction as provided in RCW 7.80.120.

(2) "Minor" means a person under seventeen years of age.

(3) "Person" means a retailer engaged in the business of selling or renting video or computer games including any individual, partnership, corporation, or association who is ((~~subject to the tax on retailers under RCW 82.04.250~~)) required to collect retail sales tax under chapter 82.08 RCW.

(4) "Violent video or computer game" means a video or computer game that contains realistic or photographic-like depictions of aggressive conflict in which the player kills, injures, or otherwise causes physical harm to a human form in the game who is depicted, by dress or other recognizable symbols, as a public law enforcement officer.

**Sec.**  RCW 28C.18.200 and 2020 c 2 s 1 are each amended to read as follows:

(1) The workforce education investment accountability and oversight board is established. The board consists of seventeen members, as provided in this subsection:

(a) Four members of the legislature consisting of the chairs and ranking minority members of the respective higher education and workforce development committees of the senate and house of representatives, ex officio; and

(b) The following members appointed by the governor with the consent of the senate:

(i) Five members representing the businesses described in RCW 82.04.299 or subject to the ((~~tax rate~~)) surcharge under RCW 82.04.290((~~(2)(a)(i)~~));

(ii) Two members representing labor organizations, one of which must have expertise in registered apprenticeships and training a high-demand workforce and one of which must represent faculty at the four-year institutions of higher education;

(iii) Two members representing the institutions of higher education, as defined in RCW 28B.10.016, one of which must be from the four-year sector and one of which must be from the community and technical college sector;

(iv) Two members representing students, one of which must be a community and technical college student;

(v) One member representing the independent, not-for-profit higher education institutions; and

(vi) One member representing the student achievement council, established under chapter 28B.77 RCW.

(2) Except for ex officio and student members, board members shall hold their offices for a term of three years until their successors are appointed. Student board members shall hold one-year terms.

(3) The board shall have two cochairs. One cochair shall be one of the chairs of the respective higher education and workforce development committees of the legislature and the other cochair shall be one of the board members representing the businesses described in RCW 82.04.299 or subject to the ((~~tax rate~~)) surcharge under RCW 82.04.290((~~(2)(a)(i)~~)). The cochairs shall hold the position for a one-year term. The board members shall elect the cochairs annually.

(4) Nine voting members of the board constitute a quorum for the transaction of business. The board shall meet four times a year.

(5) Staff support for the board shall be provided by the workforce training and education coordinating board established in this chapter.

(6) The purposes of the board are to:

(a) Provide guidance and recommendations to the legislature on what workforce education priorities should be funded with the workforce education investment account; and

(b) Ensure accountability that the workforce education investments funded with the workforce education investment account are producing the intended results and are effectively increasing student success and career readiness, such as by increasing retention, completion, and job placement rates.

(7) The board shall consult data from the education data center established under RCW 43.41.400 and the workforce training and education coordinating board established under this chapter when reviewing and determining whether workforce education investments funded from the workforce education investment account are effectively increasing student success and career readiness.

(8) The board shall report its recommendations to the appropriate committees of the legislature by August 1st of each year.

(9) For the purposes of this section, "board" means the workforce education investment accountability and oversight board established in this section.

**Sec.**  RCW 35.87A.010 and 2021 c 225 s 1 are each amended to read as follows:

To aid general economic development and neighborhood revitalization, and to facilitate the cooperation of merchants, businesses, and residential property owners which assists trade, economic viability, and liveability, the legislature hereby authorizes all counties and all incorporated cities and towns, including unclassified cities and towns operating under special charters:

(1) To establish, after a petition submitted by the operators responsible for sixty percent of the assessments by businesses and multifamily residential or mixed-use projects within the area, parking and business improvement areas, hereafter referred to as area or areas, for the following purposes:

(a) The acquisition, construction or maintenance of parking facilities for the benefit of the area;

(b) Decoration of any public place in the area;

(c) Sponsorship or promotion of public events which are to take place on or in public places in the area;

(d) Furnishing of music in any public place in the area;

(e) Providing professional management, planning, and promotion for the area, including the management and promotion of retail trade activities in the area;

(f) Providing maintenance and security for common, public areas; or

(g) Providing transportation services for the benefit of the area.

(2)(a) To levy special assessments on all businesses and multifamily residential or mixed-use projects within the area and specially benefited by a parking and business improvement area to pay in whole or in part the damages or costs incurred therein as provided in this chapter.

(b) A lodging business may, but is not required to, collect any special assessment amount from its guests in the form of a separately stated charge per night on the sale of lodging taxable by the state under chapter 82.08 RCW. Such charges must be separately stated from the room rate on the invoice, bill of sale, or similar document provided by the lodging business to the guest. A lodging business that collects a special assessment from its guests as authorized under this subsection (2)(b) is deemed to be collecting the assessment amount from its guests as agent for the jurisdiction levying the special assessment. Such per night charges are not part of the selling price under RCW 82.08.010 for state and local sales tax purposes, nor are they part of the gross proceeds of sales of the lodging business for purposes of ((~~state business and occupation~~)) the margin tax((~~es~~)) imposed under chapter 82.04 RCW.

**Sec.**  RCW 35.102.160 and 2006 c 301 s 6 are each amended to read as follows:

(1) A city that imposes its business and occupation tax on professional employer services performed by a professional employer organization, regardless of the tax classification applicable to such services, ((~~shall~~)) must provide a deduction ((~~identical to the deduction in RCW 82.04.540(2)~~)) from the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

(2) For the purposes of this section, ((~~"professional employer organization" and "professional employer services" have the same meanings as~~)) the definitions in RCW 82.04.540 apply.

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

(1) Beginning in January 1984, and in January of every fourth year thereafter, the department of revenue must submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing must include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing must include but not be limited to the following revenue sources:

(a) Real and personal property tax exemptions under Title 84 RCW;

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

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

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

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

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

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

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

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

(j) Insurance premiums tax exemptions under chapter 48.14 RCW; and

(k) Margin tax exemptions, deductions, credits, and exclusions under chapter 82.04 RCW.

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

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

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

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

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

**Sec.**  RCW 43.79.195 and 2021 c 334 s 971 and 2021 c 170 s 6 are each reenacted and amended to read as follows:

(1) The workforce education investment account is created in the state treasury. All revenues from the workforce investment surcharge created in RCW 82.04.299 and those revenues as specified under RCW 82.04.290((~~(2)(c)~~)) must be deposited directly into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for higher education programs, higher education operations, higher education compensation, state-funded student aid programs, and workforce development including career connected learning as defined by RCW 28C.30.020. For the 2021-2023 fiscal biennium, expenditures from the account may be used for kindergarten through twelfth grade if used for career connected learning as provided for in chapter 406, Laws of 2019.

(2) Expenditures from the workforce education investment account must be used to supplement, not supplant, other federal, state, and local funding for higher education.

**Sec.**  RCW 43.365.020 and 2022 c 270 s 4 are each amended to read as follows:

(1) The department must adopt criteria for the approved motion picture competitiveness program with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production. Rules adopted by the department shall allow the program, within the established criteria, to provide funding assistance only when it captures economic opportunities for Washington's communities and businesses and shall only be provided under a contractual arrangement with a private entity. In establishing the criteria, the department shall consider:

(a) The additional income and tax revenue to be retained in the state for general purposes;

(b) The creation and retention of family-wage jobs which provide health insurance and payments into a retirement plan;

(c) The impact of motion picture projects to maximize in-state labor and the use of in-state film production and film postproduction companies;

(d) The impact upon the local economies and the state economy as a whole, including multiplier effects;

(e) The intangible impact on the state and local communities that comes with motion picture projects;

(f) The regional, national, and international competitiveness of the motion picture filming industry;

(g) The revitalization of the state as a premier venue for motion picture production and national television commercial campaigns;

(h) Partnerships with the private sector to bolster film production in the state and serve as an educational and cultural purpose for its citizens;

(i) The vitality of the state's motion picture industry as a necessary and critical factor in promoting the state as a premier tourist and cultural destination;

(j) Giving preference to additional seasons of television series that have previously qualified and to motion picture productions that tell stories of marginalized communities; and

(k) Other factors the department may deem appropriate for the implementation of this chapter.

(2) The board of directors shall create and administer an account for carrying out the purposes of subsection (4) of this section.

(3) The board's goal must be to commit at least 20 percent of funding assistance to motion picture productions located or filmed in rural communities and 20 percent of funding assistance to motion picture productions that tell stories of marginalized communities.

(4) Money received by the approved motion picture competitiveness program shall be used only for:

(a) Health insurance and payments into a retirement plan, and other costs associated with film production;

(b) Staff and related expenses to maintain the program's proper administration and operation;

(c) Supporting the growth and development of the Washington state film industry through career connected learning, workforce development, and business development with a focus on better supporting people from marginalized or rural communities; and

(d) Developing resources to facilitate filming in rural communities including, but not limited to, economic development grants for filming, training for film liaisons, information about film permitting processes, and grants to support the expansion of location database collateral.

(5) Except as provided otherwise in subsections (8) and (9) of this section, maximum funding assistance from the approved motion picture competitiveness program is limited to an amount up to thirty percent of the total actual investment in the state of at least:

(a) Five hundred thousand dollars for a single motion picture produced in Washington state; or

(b) One hundred fifty thousand dollars for a television commercial associated with a national or regional advertisement campaign produced in Washington state.

(6) Except as provided otherwise in subsections (8) and (9) of this section, maximum funding assistance from the approved motion picture competitiveness program is limited to an amount up to thirty-five percent of the total actual investment of at least three hundred thousand dollars per episode produced in Washington state. A minimum of six episodes of a series must be produced to qualify under this subsection. A maximum of up to thirty percent of the total actual investment from the approved motion picture competitiveness program may be awarded to an episodic series of less than six episodes.

(7) With respect to costs associated with nonstate labor for motion pictures and episodic services, funding assistance from the approved motion picture competitiveness program is limited to an amount up to fifteen percent of the total actual investment used for costs associated with nonstate labor. To qualify under this subsection, the production must have a labor force of at least eighty-five percent of Washington residents. The board may establish additional criteria to maximize the use of in-state labor.

(8)(a) The approved motion picture competitiveness program may allocate an annual aggregate of no more than ten percent of the qualifying contributions by the program ((~~under RCW 82.04.4489~~)) to provide funding support for filmmakers who are Washington residents, new forms of production, and emerging technologies.

(i) Up to thirty percent of the actual investment for a motion picture with an actual investment lower than that of motion pictures under subsection (5)(a) of this section; or

(ii) Up to thirty percent of the actual investment of an interactive motion picture intended for multiplatform exhibition and distribution.

(b) Subsections (5) and (6) of this section do not apply to this subsection.

(9)(a) In addition to the maximum funding assistance established in subsections (5) and (6) of this section, up to a 10 percent enhancement award on a motion picture production's state investment must be given for motion pictures: (i) Located or filmed in a rural community; or (ii) that tell stories of marginalized communities.

(b) Total actual investment requirements established in subsections (5) and (6) of this section apply to this subsection (9).

(10)(a) Funding assistance must include up to $3,000,000 for small motion picture productions produced in Washington state, subject to subsection (11) of this section, that are creatively driven by Washington residents. To qualify, the small motion picture production must have at least two Washington residents in any combination of the following positions: Writer, director, producer, or lead actor. An entity seeking funding assistance for a small motion picture production must demonstrate that the amount of the total actual investment for the production is less than $1,000,000.

(b) Maximum funding assistance and total actual investment requirements, established in subsections (5), (6), (7), (8), and (9) of this section apply to small motion picture productions. The department shall adopt rules as necessary to implement this subsection (10).

(11) Funding assistance approval must be determined by the approved motion picture competitiveness program within a maximum of thirty calendar days from when the application is received, if the application is submitted after August 15, 2006. For small motion picture productions, the approved motion picture competitiveness program, after determining a conditional approval of the production, shall hold the production's funding assistance in reserve while the entity seeking funding assistance for the production secures financing for the remainder of the budget. Once the entity seeking funding assistance for the production demonstrates to the program that it has secured the necessary financing, the program shall certify the small motion picture production as approved. If the entity seeking funding assistance cannot demonstrate within six months from the date of conditional approval that it has secured the total budget, the program must make the funding assistance available to other eligible applicants with funding assistance approval.

(12) By December 31, 2022, and annually thereafter, the department, on behalf of the board, must report to the legislature on the approved motion picture competitiveness program. This report may include information required in the survey established in RCW 43.365.040. At a minimum, the report must include an annual list of recipients awarded financial assistance from the prior year with total estimated production costs, locations of each production, and the board's progress towards the goal of at least 20 percent of its funding assistance provided to motion picture productions located or filmed in rural communities and 20 percent of its funding assistance provided to motion picture productions that tell stories of marginalized communities. The report must also include information on workforce development, career connected learning, and business development activities, including whether they have been scaled up in size from the previous year and how they are meeting the goal of supporting people from marginalized communities.

(13) The approved motion picture competitiveness program must allocate funds for training and job placement for marginalized communities as follows:

(a) For fiscal years 2023 and 2024, a minimum of $500,000 for each fiscal year; and

(b) For each fiscal year on or after July 1, 2024, a minimum of $750,000.

**Sec.**  RCW 48.14.080 and 2010 1st sp.s. c 23 s 520 are each amended to read as follows:

(1) As to insurers, other than title insurers and taxpayers under RCW 48.14.0201, the taxes imposed by this title are in lieu of all other taxes, except as otherwise provided in this section.

(2) Subsection (1) of this section does not apply with respect to:

(a) Taxes on real and tangible personal property;

(b) Excise taxes on the sale, purchase, use, or possession of (i) real property; (ii) tangible personal property; (iii) extended warranties; (iv) services, including digital automated services as defined in RCW 82.04.192; and (v) digital goods and digital codes as those terms are defined in RCW 82.04.192; and

(c) The tax imposed in ((~~RCW 82.04.260(9), regarding~~)) section 202 of this act as applied to public and nonprofit hospitals.

(3) For the purposes of this section, the term "taxes" includes taxes imposed by the state or any county, city, town, municipal corporation, quasi‑municipal corporation, or other political subdivision.

**Sec.**  RCW 48.62.151 and 2009 c 162 s 30 are each amended to read as follows:

A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, from fees assessed under chapter 48.02 RCW, from chapters 48.32 and 48.32A RCW, from ((~~business and occupations~~)) taxes imposed under chapter 82.04 RCW, and from any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to and no exemption is provided for insurance companies issuing policies to cover program risks, nor does it apply to or provide an exemption for third-party administrators, surplus line brokers, or insurance producers serving the self-insurance program.

**Sec.**  RCW 48.64.110 and 2009 c 314 s 12 are each amended to read as follows:

A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, fees assessed under chapter 48.02 RCW, chapters 48.32 and 48.32A RCW, ((~~business and occupation~~)) taxes imposed under chapter 82.04 RCW, and any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to, and no exemption is provided for, insurance companies issuing policies to cover program risks, and does not apply to or provide an exemption for third-party administrators or insurance producers serving the joint self-insurance program.

**Sec.**  RCW 48.180.055 and 2015 c 109 s 15 are each amended to read as follows:

A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, fees assessed under chapters 48.02, 48.32, and 48.32A RCW, ((~~business and occupation~~)) taxes imposed under chapter 82.04 RCW, and any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to or provide exemptions for insurance companies issuing policies to cover program risks and third-party administrators or insurance producers serving the joint self-insurance program.

**Sec.**  RCW 48.190.100 and 2017 c 221 s 11 are each amended to read as follows:

A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, fees assessed under chapter 48.02 RCW, chapters 48.32 and 48.32A RCW, ((~~business and occupation~~)) taxes imposed under chapter 82.04 RCW, and any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to, and no exemption is provided for, insurance companies issuing policies to cover program risks, and does not apply to or provide an exemption for third-party administrators or insurance producers serving the joint self-insurance program.

**Sec.**  RCW 49.04.220 and 2020 c 165 s 4 are each amended to read as follows:

(1) A significant commercial airplane manufacturer ((~~receiving the rate of 0.357 percent under RCW 82.04.260(11)(e)~~)) is subject to an aerospace apprenticeship utilization rate of one and five-tenths percent of its qualified apprenticeable workforce in Washington by July 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under RCW 82.04.260(11)(e) or the date that the 0.357 percent rate authorized under RCW 82.04.260(11)(e) would have taken effect pursuant to RCW 82.04.260 and 82.04.2602 as those statutes existed on December 31, 2026, whichever is later, as determined by the department of labor and industries.

(2) The aerospace industry in Washington, excluding a significant commercial airplane manufacturer, is subject to an aerospace apprenticeship utilization rate of one and five-tenths percent of its qualified apprenticeable workforce in Washington by July 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under RCW 82.04.260(11)(e) or the date that the 0.357 percent rate authorized under RCW 82.04.260(11)(e) would have taken effect pursuant to RCW 82.04.260 and 82.04.2602 as those statutes existed on December 31, 2026, whichever is later, as determined by the department of labor and industries.

(3) Aerospace employers must report relevant occupation data related to the qualified apprenticeable workforce to the department of labor and industries.

(4) The department of labor and industries shall report the aerospace apprenticeship utilization rate to ((~~the department [of revenue] and~~)) the appropriate committees of the legislature annually beginning October 1, 2024.

(5) The department of labor and industries shall determine aerospace apprenticeship utilization rates under this section based on the framework developed under RCW 49.04.210 and using occupational data reported to the department of labor and industries and/or the employment security department. For data reported to the department of labor and industries, the department of labor and industries shall determine the form and manner in which occupational data is reported, consistent with the framework developed under RCW 49.04.210, and may adopt rules to ensure full participation within the industry necessary to implement the requirements of this section. The department of labor and industries, consulting with the department of revenue, may also require additional information on the annual tax performance report under RCW 82.32.534. The department of labor and industries may adopt rules to ensure full participation within the industry and necessary to implement the requirements of this section.

(6) For the purposes of this section, the following definitions apply.

(a) "Aerospace employer" means any person that qualifies for the rate under RCW 82.04.260(11)(e) or the date that the 0.357 percent rate authorized under RCW 82.04.260(11)(e) would have taken effect pursuant to RCW 82.04.260 and 82.04.2602 as those statutes existed on December 31, 2026, with twenty-five or more employees in positions determined to be qualified occupations by the Washington state apprenticeship and training council according to this chapter ((~~49.04 RCW~~)) directly applicable to the production of commercial aircraft.

(b) "Qualified apprenticeable workforce" means all occupations approved by the Washington state apprenticeship and training council according to this chapter ((~~49.04 RCW~~)) directly applicable to the production of commercial aircraft.

(c) "Significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least fifty thousand full-time employees in Washington as of January 1, 2021.

**Sec.**  RCW 81.112.330 and 2000 2nd sp.s. c 4 s 30 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, no regional transit authority may initiate a transaction authorized under RCW 81.112.300 after June 30, 2007.

(2) The termination of authority to enter into transactions after June 30, 2007, does not affect the validity of any transactions entered into under RCW 81.112.300.

(3) A regional transit authority may enter into a transaction in accordance with RCW 81.112.300 after June 30, 2007, to replace or refinance a transaction that relates to specific obligations entered into on or before that date and that has terminated, or is, under the terms of the replacement or refinance, to terminate, before the final stated term of that transaction. The exemptions from taxes provided by RCW 82.08.834, 82.12.834, ((~~82.04.4201,~~)) 82.29A.134, ((~~82.36.605 [84.36.605]~~)) 84.36.605, 35.21.756, 82.04.050, 82.45.010, and 35.21.755 apply to the replacement or refinance transactions.

(4) A regional transit authority, or public corporation or entity created under RCW 81.112.320, that undertakes a transaction authorized by RCW 81.112.300, shall provide to the state finance committee, or its financial advisor, at the state finance committee's discretion, a copy of all material agreements executed in connection with the transaction within three months of the closing of the transaction and shall make a report to the state finance committee, the president of the senate, and the speaker of the house of representatives on transactions authorized by RCW 81.112.300. The report must include the amount of the transactions, the expected savings or losses resulting from the transactions, the transaction costs, including fees and detailed pricing information, the risks associated with the transaction, and any other information the regional transit authority determines relevant. The report must be submitted within six months of the closing of each transaction.

**Sec.**  RCW 82.02.250 and 2019 c 8 s 104 are each amended to read as follows:

A ((~~person~~)) taxpayer that has a substantial nexus under RCW 82.04.067 is obligated to pay all applicable taxes and fees imposed on that ((~~person's~~)) taxpayer's business activity, including any taxes and fees enacted after December 31, 2018. For purposes of this section, "taxes and fees" means any monetary exaction, regardless of its label, that is imposed directly on a ((~~person~~)) taxpayer engaging in business and that the department is responsible for collecting.

**Sec.**  RCW 82.04.010 and 1996 c 93 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions set forth in ((~~the sections preceding RCW 82.04.220~~)) this chapter apply throughout this chapter.

**Sec.**  RCW 82.04.050 and 2021 c 296 s 8 and 2021 c 1443 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) ((~~The~~)) Except as otherwise provided in this section, the term also means every sale of tangible personal property to ((~~persons~~)) taxpayers engaged in any business that is taxable under ((~~RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908~~)) this chapter.

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

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

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

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

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

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

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same. For the purposes of this section, it is presumed that the sale of and charge made for the furnishing of lodging offered regularly for public occupancy for periods of less than a month constitutes a license to use or enjoy the property subject to sales and use tax and not a rental or lease of property;

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

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

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

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

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

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

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

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

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

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

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

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

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

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

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

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

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

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

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

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

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

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

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

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

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

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

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

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

(i) Custom software; or

(ii) The customization of prewritten computer software.

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

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

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

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

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

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

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

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

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

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

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

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

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

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

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

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

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

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

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

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

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

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

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

(v) Batting cage activities;

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

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

(viii) Day trips for sightseeing purposes;

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

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

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

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

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

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

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

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

(xvii) Paintball and airsoft activities;

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

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

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

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

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

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

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

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

(16)(a) The term "sale at retail" or "retail sale" includes the purchase or acquisition of tangible personal property and specified services by a person who receives either a qualifying grant exempt from tax under RCW 82.04.767 or 82.16.320 or a salmon recovery grant deductible under RCW 82.04.4339, except for transactions excluded from the definition of "sale at retail" or "retail sale" by any other provision of this section. Nothing in this subsection (16) may be construed to limit the application of any other provision of this section to purchases by a recipient of either a qualifying grant exempt from tax under RCW 82.04.767 or a salmon recovery grant deductible under RCW 82.04.4339, or by any other person.

(b) For purposes of this subsection (16), "specified services" means:

(i) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation;

(ii) The clearing of land or the moving of earth, whether or not associated with activities described in (b)(i) of this subsection (16);

(iii) The razing or moving of existing buildings or structures; and

(iv) Landscape maintenance and horticultural services.

**Sec.**  RCW 82.04.051 and 2021 c 145 s 4 are each amended to read as follows:

(1) As used in RCW 82.04.050 and including for the purposes of the taxes imposed in chapter 82.08 RCW in addition to the taxes imposed in this chapter, the term "services rendered in respect to" means, in the context of constructing, building, repairing, improving, and decorating buildings or other structures, those services that are directly related to the constructing, building, repairing, improving, and decorating of buildings or other structures and that are performed by a person who is responsible for the performance of the constructing, building, repairing, improving, or decorating activity. The term does not include services such as engineering, architectural, surveying, flagging, accounting, legal, consulting, land development or management, or administrative services provided to the consumer of, or person responsible for performing, the constructing, building, repairing, improving, or decorating services.

(2) A contract or agreement under which a person is responsible for both services that ((~~would otherwise be subject to tax as a service under RCW 82.04.290(2)~~)) are not defined as a retail sale or wholesale sale and also constructing, building, repairing, improving, or decorating activities that ((~~would otherwise be subject to tax under another section of this chapter~~)) are defined as a retail sale or wholesale sale is subject to the tax that applies to the predominant activity under the contract or agreement.

(3) Unless otherwise provided by law, a contract or agreement under which a person is responsible for activities that are ((~~subject to tax as a service under RCW 82.04.290(2)~~)) not defined as a retail sale or wholesale sale, and a subsequent contract or agreement under which the same person is responsible for constructing, building, repairing, improving, or decorating activities ((~~subject to tax under another section of this chapter~~)) defined as a retail sale or wholesale sale, shall not be combined and taxed as a ((~~single activity~~)) retail sale or wholesale sale if at the time of the first contract or agreement it was not contemplated by the parties, as evidenced by the facts, that the same person would be awarded both contracts.

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

(a) "Land development or management" means site identification, zoning, permitting, and other preconstruction regulatory services provided to the consumer of the constructing, building, repairing, improving, or decorating services. This includes, but is not limited to, acting as an owner's representative during any design or construction period, including recommending a contractor, monitoring the budget and schedule, approving invoices, and interacting on the behalf of the consumer with the person who has control over the work itself or responsible for the performance of the work.

(b) "Responsible for the performance" means that the person is obligated to perform the activities, either personally or through a third party. A person who reviews work for a consumer, retailer, or wholesaler but does not supervise or direct the work is not responsible for the performance of the work. A person who is financially obligated for the work, such as a bank, but who does not have control over the work itself is not responsible for the performance of the work.

**Sec.**  RCW 82.04.062 and 1985 c 471 s 5 are each amended to read as follows:

(1) For purposes of this chapter, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail" do not include the sale of precious metal bullion or monetized bullion.

(2) ((~~In computing tax under this chapter on the business of making sales of precious metal bullion or monetized bullion, the tax shall be imposed on the amounts received as commissions upon transactions for the accounts of customers over and above the amount paid to other dealers associated in such transactions, but no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.~~

~~(3)~~)) For purposes of this section, "precious metal bullion" means any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

**Sec.**  RCW 82.04.170 and 1993 sp.s. c 18 s 37 and 1993 c 181 s 13 are each reenacted and amended to read as follows:

"Tuition fee" includes library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution. "Educational institution," as used in this section, means only those institutions created or generally accredited as such by the state and includes educational programs that such educational institution cosponsors with a nonprofit organization, as defined by the internal revenue code Sec. 501(c)(3), if such educational institution grants college credit for coursework successfully completed through the educational program, or an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW((~~, and in accordance with RCW 82.04.4332~~)) or defined as a degree-granting institution under RCW 28B.85.010(3) and accredited by an accrediting association recognized by the United States secretary of education, and offering to students an educational program of a general academic nature or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture, but not including specialty schools, business colleges, other trade schools, or similar institutions.

**Sec.**  RCW 82.04.190 and 2017 c 323 s 513 and 2017 c 323 s 202 are each reenacted and amended to read as follows:

"Consumer" means the following:

(1) Except as provided otherwise in this section, any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:

(a) Resale as tangible personal property in the regular course of business;

(b) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;

(c) Consuming such property in producing for sale as a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(d) Consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2)(a) ((~~Any~~)) Except as otherwise provided in this section, any person engaged in any business activity taxable under ((~~RCW 82.04.290 or 82.04.2908~~)) this chapter; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who makes a purchase meeting the definition of "sale at retail" and "retail sale" under RCW 82.04.050(15), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user of software. For purposes of this subsection (2)(f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6)(c) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right‑of‑way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind ((~~as defined in RCW 82.04.280~~)), in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right‑of‑way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right‑of‑way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition may be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section may be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of possession of tangible personal property that, under the terms of an extended warranty as defined in RCW 82.04.050(7), has been repaired or is replacement property, but only with respect to the sale of or charge made for the repairing of the tangible personal property or the replacement property;

(10) Any person who purchases, acquires, or uses services described in RCW 82.04.050(6)(c) other than:

(a) For resale in the regular course of business; or

(b) For purposes of consuming the service described in RCW 82.04.050(6)(c) in producing for sale a new product, but only if such service becomes a component of the new product. For purposes of this subsection (10), "product" means a digital product, an article of tangible personal property, or the service described in RCW 82.04.050(6)(c);

(11)(a) Any end user of a digital product or digital code. "Consumer" does not include any person who is not an end user of a digital product or a digital code and purchases, acquires, owns, holds, or uses any digital product or digital code for purposes of consuming the digital product or digital code in producing for sale a new product, but only if the digital product or digital code becomes a component of the new product. A digital code becomes a component of a new product if the digital good or digital automated service acquired through the use of the digital code becomes incorporated into a new product. For purposes of this subsection, "product" has the same meaning as in subsection (10) of this section.

(b)(i) For purposes of this subsection, "end user" means any taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives by contract a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to others. A person that purchases digital products or digital codes for the purpose of giving away such products or codes will not be considered to have engaged in the distribution or redistribution of such products or codes and will be treated as an end user;

(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates;

(12) Any person who provides services described in RCW 82.04.050(9). Any such person is a consumer with respect to the purchase, acquisition, or use of the tangible personal property that the person provides along with an operator in rendering services defined as a retail sale in RCW 82.04.050(9). Any such person may also be a consumer under other provisions of this section;

(13) Any person who purchases, acquires, owns, holds, or uses chemical sprays or washes for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, or who purchases feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials, is not a consumer of such items, but only to the extent that the items:

(a) Are used in relation to the person's participation in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, the wildlife habitat incentives program, or their successors administered by the United States department of agriculture;

(b) Are for use by a farmer for the purpose of producing for sale any agricultural product; or

(c) Are for use by a farmer to produce or improve wildlife habitat on land the farmer owns or leases while acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife;

(14) A regional transit authority is not a consumer with respect to labor, services, or tangible personal property purchased pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a transit agency, as defined in RCW 81.104.015, performs the labor or services; and

(15) The term "consumer" does not include:

(a) An animal rescue organization with respect to animals under its care and control; and

(b) Any person with respect to an animal adopted by that person from an animal rescue organization.

**Sec.**  RCW 82.04.2404 and 2021 c 145 s 6 are each amended to read as follows:

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

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

((~~(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.~~

~~(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if the number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed.~~

~~(5)~~)) (2) This section expires December 1, 2028.

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

(1) ((~~Upon every person engaging within this state in the business of: (a) Printing materials other than newspapers, and of publishing periodicals or magazines; (b) building, repairing or improving any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (c) extracting for hire or processing for hire, except persons taxable as extractors for hire or processors for hire under another section of this chapter; (d) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (e) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW; (f) radio and television broadcasting, but excluding revenues from network, national, and regional advertising computed either: (i) As a standard deduction that the department must publish by rule by September 30, 2020, and by September 30th of every fifth year thereafter, based on the national average thereof as reported by the United States census bureau's economic census; or (ii) in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the broadcasting station's total audience as measured by the .5 millivolt/meter signal strength contour for AM radio, the one millivolt/meter or sixty dBu signal strength contour for FM radio, the twenty-eight dBu signal strength contour for television channels two through six, the thirty-six dBu signal strength contour for television channels seven through thirteen, and the forty-one dBu signal strength contour for television channels fourteen through sixty-nine with delivery by wire, satellite, or any other means, if any; (g) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.484 percent.~~

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

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

((~~(b)~~)) (2) "Storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. ((~~"Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under RCW 82.04.272 is conducted.~~

~~(c)~~)) (3) "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

**Sec.**  RCW 82.04.294 and 2022 c 172 s 2 are each amended to read as follows:

(1) ((~~Upon every person engaging within this state in the business of manufacturing solar energy systems using photovoltaic modules or stirling converters, or of manufacturing solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems; as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.~~

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

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

((~~(4)~~)) (2) The definitions in this subsection apply throughout this section.

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

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

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

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

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

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

(g) "Solar grade silicon" means high‑purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors.

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

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

((~~(5) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.~~

~~(6)~~)) (3) This section expires July 1, 2032.

**Sec.**  RCW 82.04.297 and 2010 c 111 s 303 are each amended to read as follows:

(1) The provision of internet access is subject to tax under RCW 82.04.290((~~(2)~~)) and section 202(1) of this act.

(2)(a) Except as provided in (b) of this subsection, "internet" and "internet access" have the same meaning as those terms are defined in the federal internet tax freedom act, Title 47 U.S.C. Sec. 151 note, as existing on July 1, 2009.

(b) "Internet access" does not include telecommunications service purchased, used, or sold by a person that provides a service that enables users to connect to the internet to access content, information, or other services offered over the internet, to the extent such telecommunications service is purchased, used, or sold: (i) To provide such service; or (ii) to otherwise enable users to access content, information, or other services offered over the internet.

(3) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

**Sec.**  RCW 82.04.324 and 2004 c 82 s 1 are each amended to read as follows:

(1) ((~~This chapter does not apply to amounts received by a qualifying blood bank, a qualifying tissue bank, or a qualifying blood and tissue bank to the extent the amounts are exempt from federal income tax.~~

~~(2) For the purposes of this section:~~

~~(a)~~)) "Qualifying blood bank" means a blood bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered pursuant to 21 C.F.R., part 607 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood. "Qualifying blood bank" does not include a comprehensive cancer center that is recognized as such by the national cancer institute.

((~~(b)~~)) (2) "Qualifying tissue bank" means a tissue bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered pursuant to 21 C.F.R., part 1271 as existing on June 10, 2004, and whose primary business purpose is the recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, heart valve tissue, or human eye tissue. "Qualifying tissue bank" does not include a comprehensive cancer center that is recognized as such by the national cancer institute.

((~~(c)~~)) (3) "Qualifying blood and tissue bank" is a bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered pursuant to 21 C.F.R., part 607 and part 1271 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood, and the recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, and heart valve tissue. "Qualifying blood and tissue bank" does not include a comprehensive cancer center that is recognized as such by the national cancer institute.

**Sec.**  RCW 82.04.385 and 2020 c 274 s 68 are each amended to read as follows:

((~~This chapter shall not apply to income received from the department of social and health services for the cost of care, maintenance, support, and training of persons with developmental disabilities at nonprofit group training homes as defined by chapter 71A.22 RCW or to the business activities of nonprofit organizations from the operation of sheltered workshops. For the purposes of this section, "the operation of sheltered workshops" means performance of business activities of any kind on or off the premises of such nonprofit organizations which~~)) "Sheltered workshop" means a nonprofit group training home as defined in RCW 71A.22.020 or other nonprofit organization, which receives income from the department of social and health services for the cost of care, maintenance, support, and training of persons with developmental disabilities, including activities that are performed for the primary purpose of (1) providing gainful employment or rehabilitation services to persons with disabilities as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for persons with disabilities.

**Sec.**  RCW 82.04.4265 and 2005 c 514 s 401 are each amended to read as follows:

((~~(1) This chapter does not apply to amounts received by a comprehensive cancer center to the extent the amounts are exempt from federal income tax.~~

~~(2) For the purposes of this section, "comprehensive~~)) "Comprehensive cancer center" means a cancer center that has written confirmation that it is recognized by the national cancer institute as a comprehensive cancer center and that qualifies as an exempt organization under 26 U.S.C. Sec. 501(c)(3) as existing on July 1, 2006.

**Sec.**  RCW 82.04.540 and 2006 c 301 s 1 are each amended to read as follows:

(1) The provision of professional employer services by a professional employer organization is taxable under RCW 82.04.290((~~(2)~~)) and section 202(1) of this act.

(2) ((~~A professional employer organization is allowed a deduction from the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.~~

~~(3) For the purposes of this section, the following definitions apply:~~

~~(a)~~)) "Client" means any person who enters into a professional employer agreement with a professional employer organization. For purposes of this subsection ((~~(3)(a)~~)) (2), "person" has the same meaning as "buyer" in RCW 82.08.010.

((~~(b)~~)) (3) "Coemployer" means either a professional employer organization or a client.

((~~(c)~~)) (4) "Coemployment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project-specific one, wherein the rights, duties, and obligations of an employer which arise out of an employment relationship have been allocated between coemployers pursuant to a professional employer agreement and applicable state law. In such a coemployment relationship:

((~~(i)~~)) (a) The professional employer organization is entitled to enforce only such employer rights and is subject to only those obligations specifically allocated to the professional employer organization by the professional employer agreement or applicable state law;

((~~(ii)~~)) (b) The client is entitled to enforce those rights and obligated to provide and perform those employer obligations allocated to such client by the professional employer agreement and applicable state law; and

((~~(iii)~~)) (c) The client is entitled to enforce any right and obligated to perform any obligation of an employer not specifically allocated to the professional employer organization by the professional employer agreement or applicable state law.

((~~(d)~~)) (5) "Covered employee" means an individual having a coemployment relationship with a professional employer organization and a client who meets all of the following criteria: ((~~(i)~~)) (a) The individual has received written notice of coemployment with the professional employer organization, and ((~~(ii)~~)) (b) the individual's coemployment relationship is pursuant to a professional employer agreement. Individuals who are officers, directors, shareholders, partners, and managers of the client are covered employees to the extent the professional employer organization and the client have expressly agreed in the professional employer agreement that such individuals would be covered employees and provided such individuals meet the criteria of this subsection and act as operational managers or perform day-to-day operational services for the client.

((~~(e)~~)) (6) "Professional employer agreement" means a written contract by and between a client and a professional employer organization that provides:

((~~(i)~~)) (a) For the coemployment of covered employees; and

((~~(ii)~~)) (b) For the allocation of employer rights and obligations between the client and the professional employer organization with respect to the covered employees.

((~~(f)~~)) (7) "Professional employer organization" means any person engaged in the business of providing professional employer services. The following shall not be deemed to be professional employer organizations or the providing of professional employer services for purposes of this section:

((~~(i)~~)) (a) Arrangements wherein a person, whose principal business activity is not entering into professional employer arrangements and which does not hold itself out as a professional employer organization, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended;

((~~(ii)~~)) (b) Independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by such person or his or her agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under such arrangements; or

((~~(iii)~~)) (c) Providing staffing services.

((~~(g)~~)) (8) "Professional employer services" means the service of entering into a coemployment relationship with a client in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees.

((~~(h)~~)) (9) "Staffing services" means services consisting of a person:

((~~(i)~~)) (a) Recruiting and hiring its own employees;

((~~(ii)~~)) (b) Finding other organizations that need the services of those employees;

((~~(iii)~~)) (c) Assigning those employees on a temporary basis to perform work at or services for the other organizations to support or supplement the other organizations' workforces, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects, all under the direction and supervision of the customer; and

((~~(iv)~~)) (d) Customarily attempting to reassign the employees to other organizations when they finish each assignment.

**Sec.**  RCW 82.04.293 and 2019 c 426 s 3 are each amended to read as follows:

((~~For purposes of RCW 82.04.290:~~))

(1) A person is engaged in the business of providing qualifying international investment management services, if:

(a) Such person is engaged primarily in the business of providing investment management services;

(b) At least ten percent of the gross income of such person is derived from providing investment management services to any of the following:

(i) Collective investment funds commercially domiciled, as defined in RCW 82.56.010, outside the United States; or

(ii) Collective investment funds with at least ten percent of their investments located outside the United States;

(c) More than twenty-five percent of such person's employees are located in this state; and

(d) Such person is a member of an affiliated group that collectively has:

(i) Ten or more offices located in at least eight foreign countries;

(ii) At least five hundred full-time employees worldwide;

(iii) Worldwide gross revenue of more than four hundred million dollars during the entire current or immediately preceding calendar year; and

(iv) Average assets under management of more than two hundred billion dollars during the entire current or immediately preceding calendar year.

(2) An affiliate of a person engaged in the business of providing qualifying international investment management services is deemed to also be engaged in the business of providing qualifying international investment management services if the affiliate:

(a) Is primarily engaged in providing portfolio management, fund administration, fund distribution, or transfer agent services, or any combination of these activities, to, either directly or indirectly through such affiliate's affiliated group, any of the following:

(i) Collective investment funds commercially domiciled, as defined in RCW 82.56.010, outside the United States; or

(ii) Collective investment funds with at least ten percent of their investments located outside the United States; and

(b) Satisfies the requirement under subsection (1)(c) of this section.

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

(a)((~~(i) "Affiliate" and "affiliated" mean a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.~~

~~(ii) For purposes of this subsection (3)(a), "control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.~~

~~(b) "Affiliated group" means any group of two or more persons that are all affiliated with each other.~~

~~(c)~~)) "Collective investment fund" includes:

(i) A mutual fund or other regulated investment company, as defined in section 851(a) of the internal revenue code of 1986, as amended;

(ii) An "investment company," as that term is used in section 3(a) of the investment company act of 1940, as well as any entity that would be an investment company for this purpose but for the exemptions contained in section 3(c) (1) or (11);

(iii) An "employee benefit plan," which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the internal revenue code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law;

(iv) A fund maintained by a tax-exempt organization, as defined in section 501(c)(3) of the internal revenue code of 1986, as amended, for operating, quasi-endowment, or endowment purposes;

(v) Funds that are established for the benefit of such tax-exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or

(vi) Collective investment funds similar to those described in ((~~(c)~~)) (a)(i) through (v) of this subsection (3) created under the laws of a foreign jurisdiction.

((~~(d)~~)) (v) "Investment management services" means managing the collective assets of a collective investment fund by engaging, either directly or indirectly through such person's affiliated group, in all of the following activities: (i) Portfolio management; (ii) fund administration; (iii) fund distribution; and (iv) transfer agent services.

(4) Investments are located outside the United States if the underlying assets in which the investment constitutes a beneficial interest reside or are created, issued or held outside the United States.

(5) If before January 1, 2027, a person engaged in the business of providing international investment management services no longer meets the Washington state employment eligibility requirements under subsection (1)(c) of this section, then an amount equal to the entire economic benefit accruing to the person in the current and immediately prior nine consecutive calendar years, or the consecutive years since July 1, 2019, whichever is less, as a result of the preferential tax rate under RCW 82.04.290(1) is immediately due and payable.

(6) The department must assess interest, but not penalties, on the amounts due under this section. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW and accrue until the taxes for which a tax preference has been used are repaid.

**Sec.**  RCW 82.04.4328 and 2021 c 176 s 5247 are each amended to read as follows:

(1) For the purposes of RCW ((~~82.04.4327,~~)) 82.08.031((~~,~~)) and 82.12.031, the term "artistic or cultural organization" means an organization that is organized and operated exclusively for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (2) of this section, for viewing or attendance by the general public. The organization must be a nonprofit corporation under chapter 24.03A RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, to qualify for deduction or exemption from taxation under RCW ((~~82.04.4327,~~)) 82.08.031((~~,~~)) and 82.12.031, the corporation must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The amounts received that qualify for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue must have access to its books in order to determine whether the corporation is exempt from taxes.

(2) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

**Sec.**  RCW 82.04.431 and 2021 c 176 s 5246 are each amended to read as follows:

(1) The term "health or social welfare organization" means an organization, including any community action council, which renders health or social welfare services as defined in subsection (2) of this section, which is a domestic or foreign nonprofit corporation under chapter 24.03A RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or which is a corporation sole under chapter 24.12 RCW. Health or social welfare organization does not include a corporation providing professional services as authorized in chapter 18.100 RCW. In addition, a corporation ((~~in order to be exempt under RCW 82.04.4297~~)) must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public service of the state;

(c) Assets of the corporation must be irrevocably dedicated to ((~~the activities for which the exemption is granted~~)) providing health or social welfare services and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation ((~~which also would be entitled to the exemption~~)) that is also a health or social welfare organization;

(d) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;

(e) The amounts received ((~~qualifying~~)) for ((~~exemption~~)) providing health or social welfare services must be used for ((~~the activities for which the exemption is granted~~)) those activities;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue must have access to its books in order to determine whether the corporation ((~~is exempt from taxes within the intent of RCW 82.04.4297 and~~)) meets the conditions of this section.

(2) The term "health or social welfare services" includes and is limited to:

(a) Mental health, drug, or alcoholism counseling or treatment;

(b) Family counseling;

(c) Health care services;

(d) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically, developmentally, or emotionally-disabled individuals;

(e) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;

(f) Care of orphans or foster children;

(g) Day care of children;

(h) Employment development, training, and placement;

(i) Legal services to the indigent;

(j) Weatherization assistance or minor home repair for low-income homeowners or renters;

(k) Assistance to low-income homeowners and renters to offset the cost of home heating energy, through direct benefits to eligible households or to fuel vendors on behalf of eligible households;

(l) Community services to low-income individuals, families, and groups, which are designed to have a measurable and potentially major impact on causes of poverty in communities of the state; and

(m) Temporary medical housing, as defined in RCW 82.08.997, if the housing is provided only:

(i) While the patient is receiving medical treatment at a hospital required to be licensed under RCW 70.41.090 or at an outpatient clinic associated with such hospital, including any period of recuperation or observation immediately following such medical treatment; and

(ii) By a person that does not furnish lodging or related services to the general public.

**Sec.**  RCW 82.08.0209 and 2021 c 4 s 4 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to a grantee's receipt of a qualifying grant that is exempt from ((~~business and occupation~~)) margin tax under RCW 82.04.767.

(2) Nothing in this section may be construed to:

(a) Imply that the tax levied by RCW 82.08.020 applies to any circumstance not described in subsection (1) of this section; or

(b) Provide an exemption from the tax levied by RCW 82.08.020 for the grantee's use of a qualifying grant to acquire products in a transaction meeting the definition of "retail sale" in RCW 82.04.050.

(3) For purposes of this section, the following definitions apply:

(a) "Grantee" means the recipient of a qualifying grant.

(b) "Product" means the same as in RCW 82.32.023.

(c) "Qualifying grant" means the same as in RCW 82.04.767.

**Sec.**  RCW 82.08.02807 and 2020 c 139 s 13 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the sales of medical supplies, chemicals, or materials to an organ procurement organization ((~~exempt under RCW 82.04.326~~)). This exemption does not apply to the sale of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

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

(a) "Chemical" means any catalyst, solvent, water, acid, oil, or other additive that physically or chemically interacts with blood, bone, or tissue.

(b) "Materials" means any item of tangible personal property including, but not limited to, bags, packs, collecting sets, filtering materials, testing reagents, antisera, and refrigerants, used or consumed in performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(c) "Medical supplies" means any item of tangible personal property, including any repair and replacement parts for such tangible personal property, used by an organ procurement organization ((~~exempt under RCW 82.04.326~~)) for the purpose of performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue. The term includes tangible personal property used to:

(i) Provide preparatory treatment of blood, bone, or tissue;

(ii) Control, guide, measure, tune, verify, align, regulate, test, or physically support blood, bone, or tissue; or

(iii) Protect the health and safety of employees or others present during research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(d) "Organ procurement organization" means a qualified organ procurement organization under 42 U.S.C. Sec. 273(b) in effect January 1, 2022, that is exempt from federal income tax.

**Sec.**  RCW 82.08.0531 and 2021 c 145 s 10 are each amended to read as follows:

(1) For purposes of this chapter and chapters 82.04 and 82.12 RCW, a marketplace facilitator is deemed to be an agent of any marketplace seller making retail sales through the marketplace facilitator's marketplace.

(2) Beginning October 1, 2018, marketplace facilitators subject to a tax collection obligation under RCW 82.08.052 (1) or (2) must collect and remit to the department retail sales tax on all taxable retail sales made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller is subject to a tax collection obligation under RCW 82.08.052 (1) or (2). Beginning January 1, 2020, the collection obligation of a marketplace facilitator under this chapter also applies to any other taxes and fees, as defined under RCW 82.02.260, that are imposed on a retail sale made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller has a tax collection obligation under RCW 82.08.052 (1) or (2).

(3) In addition to other applicable recordkeeping requirements, the department may require a marketplace facilitator to provide or make available to the department any information the department determines is reasonably necessary to enforce the provisions of this chapter and chapter 82.13 RCW. Such information may include documentation of sales made by marketplace sellers through the marketplace facilitator's marketplace. The department may prescribe by rule the form and manner for providing this information.

(4)(a) Beginning July 1, 2019, to ensure that marketplace sellers have the necessary information to timely and accurately file their excise tax returns with the department pursuant to RCW 82.32.045, a marketplace facilitator must, at a minimum, provide each of its marketplace sellers with access, through a written report or other means, to gross sales information for all Washington sales made as an agent of the marketplace seller under this section during the immediately preceding month. Marketplace facilitators must provide such access within fifteen calendar days following the end of each month.

(b) If a marketplace seller does not receive the gross sales information for all Washington sales through a marketplace facilitator, as required under (a) of this subsection (4), the marketplace seller may determine its ((~~business and occupation tax liability under chapter 82.04 RCW~~)) margin tax liability under section 202 of this act based on a reasonable method of estimating Washington sales as may be required or approved by the department.

(c) For purposes of this subsection, "Washington sales" means any sale sourced to this state under RCW 82.32.730, regardless of whether the sale is a retail sale.

(5) If a marketplace facilitator has fully complied with the requirements of subsection (4)(a) of this section, the marketplace facilitator is relieved of liability under this chapter and chapter 82.12 RCW for failure to collect the correct amount of tax to the extent that the marketplace facilitator can show to the department's satisfaction that the error was due to incorrect information given to the marketplace facilitator by the marketplace seller, unless the marketplace facilitator and marketplace seller are affiliated persons. Where the marketplace facilitator is relieved of liability under this subsection (5), the marketplace seller is solely liable for the amount of uncollected tax due.

(6)(a) Subject to the limits in (b) and (c) of this subsection (6), a marketplace facilitator that has fully complied with the requirements of subsection (4)(a) of this section is relieved of liability under this chapter and chapter 82.12 RCW for the failure to collect tax on taxable retail sales to the extent that the marketplace facilitator can show to the department's satisfaction that:

(i) The taxable retail sale was made through the marketplace facilitator's marketplace;

(ii) The taxable retail sale was made solely as the agent of a marketplace seller, and the marketplace facilitator and marketplace seller are not affiliated persons; and

(iii) The failure to collect sales tax was not due to an error in sourcing the sale under RCW 82.32.730.

(b) Liability relief for a marketplace facilitator under (a) of this subsection (6) for a calendar year is limited as follows:

(i) For calendar year 2018, the liability relief may not exceed ten percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales facilitated by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(ii) For calendar year 2019, the liability relief may not exceed five percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(iii) The provisions of this subsection (6) do not apply to retail sales made after December 31, 2019.

(c) For purposes of this subsection (6), a retail sale is deemed to be facilitated by a marketplace facilitator when the marketplace facilitator either:

(i) Accepts the order for the product;

(ii) Communicates to the marketplace seller the buyer's offer to purchase the product;

(iii) Accepts the buyer's payment for the product; or

(iv) Delivers or arranges for delivery of the product.

(d) Where the marketplace facilitator is relieved of liability under this subsection (6), the marketplace seller is also relieved of liability for the amount of uncollected tax due, subject to the limitations in subsection (7) of this section.

(e) The department may by rule determine the manner in which a taxpayer may claim the liability relief provided under this subsection.

(7) Except as otherwise provided in this section, a marketplace seller obligated to collect the taxes imposed under this chapter and chapter 82.12 RCW is not required to collect such taxes on all taxable retail sales through a marketplace operated by a marketplace facilitator if the marketplace seller has obtained documentation from the marketplace facilitator indicating that the marketplace facilitator is registered with the department and will collect all applicable taxes due under this chapter and chapter 82.12 RCW on all taxable retail sales made on behalf of the marketplace seller through the marketplace operated by the marketplace facilitator. The documentation required by this subsection (7) must be provided in a form and manner prescribed by or acceptable to the department. This subsection (7) does not relieve a marketplace seller from liability for uncollected taxes due under this chapter or chapter 82.12 RCW resulting from a marketplace facilitator's failure to collect the proper amount of tax due when the error was due to incorrect information given to the marketplace facilitator by the marketplace seller.

(8) No class action may be brought against a marketplace facilitator in any court of this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection affects a purchaser's right to seek a refund from the department as provided under chapter 82.32 RCW.

(9) Nothing in this section affects the obligation of any purchaser to remit sales or use tax and any other applicable taxes and fees, as to any applicable taxable transaction in which the seller or the seller's agent does not collect and remit sales tax.

**Sec.**  RCW 82.08.052 and 2019 c 8 s 106 are each amended to read as follows:

(1)(a) From October 1, 2018, through December 31, 2019, a seller is obligated to collect and remit to the department the taxes imposed under this chapter, except as otherwise provided in RCW 82.08.0531(2) and this subsection, if the seller, in the current or immediately preceding calendar year, had:

(i) More than one hundred thousand dollars of cumulative gross receipts from this state;

(ii) Subject to the limitation in (c)(ii) of this subsection (1), two hundred or more separate transactions for the delivery of products into this state; or

(iii) Subject to the limitation in RCW 82.32.531, physical presence in this state under RCW 82.04.067.

(b) Cumulative gross receipts counting toward the threshold in (a)(i) of this subsection include a person's gross income of the business from all retail sales made by the seller and sourced to this state under RCW 82.32.730.

(c)(i) Transactions counting toward the threshold in (a)(ii) of this subsection include all retail sales transactions made by the seller and sourced to this state under RCW 82.32.730.

(ii) From March 14, 2019, a seller is relieved of the obligation to collect the taxes imposed under this chapter and remit those taxes to the department if that obligation arose solely based on the threshold in (a)(ii) of this subsection.

(iii) For purposes of the threshold in (a)(ii) of this subsection "transaction" means an agreement to furnish a product or products for consideration, and includes a sale as defined in RCW 82.04.040.

(iv) The term "transaction" does not include an agreement if the agreement is canceled or rescinded before any of the products are delivered to the buyer or other recipient designated by the buyer, the seller retains no part of the consideration from the buyer, and the seller did not collect from the buyer any tax imposed or authorized under this title.

(v) With regard to agreements requiring multiple payments by the consumer, such as a lease, rental, or installment sale, such agreements count as a single transaction for purposes of this subsection, regardless of the number of payments required under the agreement. However, any modification of such an agreement that provides for additional payments is counted as an additional transaction.

(d)(i) Subject to (b) and (c) of this subsection (1), for a marketplace facilitator, receipts and transactions counting toward the thresholds in (a)(i) and (ii) of this subsection include, in addition to the cumulative gross receipts and separate transactions of its own sales, the cumulative gross receipts and separate transactions from sales by all marketplace sellers through the marketplace facilitator's marketplace, including marketplace sellers that are not obligated to collect the taxes under this chapter pursuant to the provisions of this section.

(ii) For a purchase made by one consumer through a marketplace facilitator, where the purchase involves sales by multiple marketplace sellers, the purchase is deemed to be one transaction for the marketplace facilitator and one transaction apiece for each marketplace seller.

(2) Beginning January 1, 2020, a seller with a substantial nexus with this state under RCW 82.04.067 is obligated to collect and remit to the department the taxes imposed under this chapter.

(3)(a) For purposes of this section, the following definitions apply:

(i) ((~~"Apportionable income" has the same meaning as provided in RCW 82.04.460.~~

~~(ii)~~)) "Gross income of the business" has the same meaning as provided in RCW 82.04.080.

((~~(iii)~~)) (ii) "Product" has the same meaning as provided in RCW 82.32.023.

(b) The definitions in RCW 82.13.010 apply to this section through June 30, 2019.

(4)(a) A seller whose obligation to collect the taxes imposed under this chapter arises after October 1, 2018, must begin collecting taxes imposed under this chapter as follows:

(i) For a remote seller, on the first day of the first calendar month that is at least thirty days from the date that the remote seller becomes required under subsection (1) or (2) of this section to collect the taxes imposed under this chapter.

(ii) For a seller that has a physical presence in this state, immediately upon establishing a tax collection obligation under subsection (1)(a)(iii) or (2) of this section.

(b) Nothing in this subsection (4) affects the ongoing tax collection obligation of any seller that was required, or elected, to collect the taxes imposed under this chapter on or before October 1, 2018.

(5) This section is subject to RCW 82.32.762.

**Sec.**  RCW 82.08.0291 and 2015 c 169 s 4 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to sales defined as a sale at retail and retail sale under RCW 82.04.050 (3)(g) or (15), by a nonprofit youth organization, ((~~as defined in RCW 82.04.4271,~~)) to members of the organization; and the tax does not apply to physical fitness classes provided by a local government.

(2) "Nonprofit youth organization" means a nonprofit organization engaged in character building of youth that is exempt from property tax under RCW 84.36.030.

**Sec.**  RCW 82.08.0311 and 1988 c 68 s 1 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales of materials and supplies directly used in the packing of fresh perishable horticultural products ((~~by any person entitled to a deduction under RCW 82.04.4287~~)) for farmers either as an agent or an independent contractor.

**Sec.**  RCW 82.08.207 and 2019 c 426 s 6 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to sales of standard financial information to qualifying international investment management companies or persons affiliated with a qualifying international investment management company. The exemption provided in this section applies regardless of whether the standard financial information is provided to the buyer in a tangible format or on a tangible storage medium or as a digital product transferred electronically.

(2) Sellers making tax-exempt sales under this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed under this section.

(3) A buyer may not continue to claim the exemption under this section once the buyer has purchased standard financial information during the current calendar year with an aggregate total selling price in excess of fifteen million dollars and an exemption has been claimed under this section or RCW 82.12.207 for such standard financial information. The fifteen million dollar limitation under this subsection does not apply to any other exemption under this chapter that applies to standard financial information. Sellers are not responsible for ensuring a buyer's compliance with the fifteen million dollar limitation under this subsection. Sellers may not be assessed for uncollected sales tax on a sale to a buyer claiming an exemption under this section after having exceeded the fifteen million dollar limitation under this subsection, except as provided in RCW 82.08.050 (4) and (5).

(4) The definitions in this subsection and RCW 82.04.293 apply throughout this section unless the context clearly requires otherwise.

(a) "Qualifying international investment management company" means a person who ((~~is~~)) would be eligible for the tax rate in RCW 82.04.290(1) were that statute still in effect.

(b)(i) "Standard financial information" means financial data, facts, or information, or financial information services, not generated, compiled, or developed only for a single customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports.

(ii) For purposes of this subsection (4)(b), "financial market data" means market pricing information, such as for securities, commodities, and derivatives; corporate actions for publicly and privately traded companies, such as dividend schedules and reorganizations; corporate attributes, such as domicile, currencies used, and exchanges where shares are traded; and currency information.

(5) This section expires July 1, 2031.

**Sec.**  RCW 82.08.806 and 2020 c 139 s 16 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales, to a printer or publisher, of computer equipment, including repair parts and replacement parts for such equipment, when the computer equipment is used primarily in the printing or publishing of any printed material, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. This exemption is available only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection (3) apply throughout this section, unless the context clearly requires otherwise.

(a) "Computer" has the same meaning as in RCW 82.04.215.

(b) "Computer equipment" means a computer and the associated physical components that constitute a computer system, including monitors, keyboards, printers, modems, scanners, pointing devices, and other computer peripheral equipment, cables, servers, and routers. "Computer equipment" also includes digital cameras and computer software.

(c) "Computer software" has the same meaning as in RCW 82.04.215.

(d) "Primarily" means greater than fifty percent as measured by time.

(e) "Printer or publisher" means a person((~~, as defined in RCW 82.04.030, who is subject to tax under RCW 82.04.260(14) or 82.04.280(1)(a)~~)) engaging in the business of printing materials or of publishing newspapers, periodicals, or magazines as those terms are defined in RCW 82.04.214 and 82.04.280.

(4) "Computer equipment" does not include computer equipment that is used primarily for administrative purposes including but not limited to payroll processing, accounting, customer service, telemarketing, and collection. If computer equipment is used simultaneously for administrative and nonadministrative purposes, the administrative use must be disregarded during the period of simultaneous use for purposes of determining whether the computer equipment is used primarily for administrative purposes.

**Sec.**  RCW 82.08.820 and 2022 c 16 s 153 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(c) "Department" means the department of revenue;

(d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include:

(i) Agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product;

(ii) Logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk; or

(iii) Cannabis, useable cannabis, or cannabis-infused products;

(f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(h) "Person" has the meaning given in RCW 82.04.030;

(i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse must be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(k) ((~~"Third-party warehouser" means a person taxable under RCW 82.04.280(1)(d);~~

~~(l)~~)) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

((~~(m)~~)) (l) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a ((~~person~~)) farmer who makes sales ((~~exempt under RCW 82.04.330~~)) at wholesale of agricultural products. The definitions in RCW 82.04.060 and 82.04.213 apply to this subsection (2)(l).

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer must on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department must on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec.**  RCW 82.08.830 and 1997 c 388 s 2 are each amended to read as follows:

The tax levied by RCW 82.08.020 ((~~shall~~)) does not apply to a sale of any of the following items made at a camp or conference center ((~~if the gross income from the sale is exempt under RCW 82.04.363~~)) conducted on property exempt from property tax under RCW 84.36.030 (1), (2), or (3):

(1) Lodging, conference and meeting rooms, camping facilities, parking, and similar licenses to use real property;

(2) Food and meals; and

(3) Books, tapes, and other products, including books and other products that are transferred electronically, that are available exclusively to the participants at the camp, conference, or meeting and are not available to the public at large.

**Sec.**  RCW 82.08.965 and 2017 3rd sp.s. c 37 s 510 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered in respect to the constructing of new buildings used for the manufacturing of semiconductor materials, to sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) To be eligible under this section the manufacturer or processor for hire must meet the following requirements for an eight-year period, such period beginning the day the new building commences commercial production, or a portion of tax otherwise due will be immediately due and payable pursuant to subsection (3) of this section:

(a) The manufacturer or processor for hire must maintain at least seventy-five percent of full employment at the new building for which the exemption under this section is claimed.

(b) Before commencing commercial production at a new facility the manufacturer or processor for hire must meet with the department to review projected employment levels in the new buildings. The department, using information provided by the taxpayer, must make a determination of the number of positions that would be filled at full employment. This number must be used throughout the eight-year period to determine whether any tax is to be repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation during which time employment at the new building at the same site is increased, the manufacturer or processor for hire must maintain seventy-five percent of full employment at the manufacturing site overall.

(d) No application is necessary for the tax exemption. The person is subject to all the requirements of chapter 82.32 RCW. A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) If the employment requirement is not met for any one calendar year, one-eighth of the exempt sales and use taxes will be due and payable by April 1st of the following year. The department must assess interest to the date the tax was imposed, but not penalties, on the taxes for which the person is not eligible.

(4) The exemption applies to new buildings, or parts of buildings, that are used exclusively in the manufacturing of semiconductor materials, including the storage of raw materials and finished product.

(5) For the purposes of this section:

(a) "Commencement of commercial production" is deemed to have occurred when the equipment and process qualifications in the new building are completed and production for sale has begun.

(b) "Full employment" is the number of positions required for full capacity production at the new building, for positions such as line workers, engineers, and technicians.

(c) "Semiconductor materials" ((~~has the same meaning as provided in RCW 82.04.240(2)~~)) means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(6) No exemption may be taken after the expiration date of this section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(7) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.08.9651 and 2021 c 145 s 12 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294((~~(3)~~)).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the exemption under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if the number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the exemption is claimed.

(5) This section expires December 1, 2028.

**Sec.**  RCW 82.08.970 and 2017 3rd sp.s. c 37 s 520 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" ((~~has the same meaning as provided in RCW 82.04.240(2)~~)) means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.08.990 and 2007 c 477 s 3 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to ((~~sales of tangible personal property if the sale is exempt from business and occupation tax under RCW 82.04.610~~)):

(a) The sale of tangible personal property in export commerce; or

(b) The wholesale sale of tangible personal property in import commerce, but only when the wholesale sale is:

(i) A sale of unroasted coffee beans; or

(ii) Between a parent company and its wholly owned subsidiary.

(2) Tangible personal property is in import commerce while the property is in the process of import transportation. Except as provided in (a) through (c) of this subsection, property is in the process of import transportation from the time the property begins its transportation at a point outside of the United States until the time that the property is delivered to the buyer in this state. Property is also in the process of import transportation if it is merely flowing through this state on its way to a destination in some other state or country. However, property is no longer in the process of import transportation when the property is:

(a) Put to actual use in any state, territory, or possession of the United States for any purpose;

(b) Resold by the importer or any other person after the property has arrived in this state or any other state, territory, or possession of the United States, regardless of whether the property is in its original unbroken package or container; or

(c) Processed, handled, or otherwise stopped in transit for a business purpose other than shipping needs, if the processing, handling, or other stoppage of transit occurs within the United States, including any of its possessions or territories, or the territorial waters of this state or any other state, regardless of whether the processing, handling, or other stoppage of transit occurs within a foreign trade zone.

(3)(a) Tangible personal property is in export commerce when the seller delivers the property to:

(i) The buyer at a destination in a foreign country;

(ii) A carrier consigned to and for transportation to a destination in a foreign country;

(iii) The buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the property has begun; or

(iv) The buyer in this state if the property is capable of being transported to a foreign destination under its own power, the seller files a shipper's export declaration with respect to the property listing the seller as the exporter, and the buyer immediately transports the property directly to a destination in a foreign country. This subsection (3)(a)(iv) does not apply to sales of motor vehicles as defined in RCW 46.04.320.

(b) The exemption under this subsection (3) applies with respect to property delivered to the buyer in this state if, at the time of delivery, there is a certainty of export, and the process of exportation has begun. The process of exportation has not begun if the property is merely in storage awaiting shipment, even though there is reasonable certainty that the property will be exported. The intention to export, as evidenced, for example, by financial and contractual relationships does not indicate certainty of export. The process of exportation begins when the property starts its final and certain continuous movement to a destination in a foreign country.

(4) Persons claiming an exemption under this section must keep and maintain records for the period required by RCW 82.32.070 establishing their right to the exemption.

**Sec.**  RCW 82.12.02749 and 2020 c 139 s 19 are each amended to read as follows:

The tax levied by RCW 82.08.020 does not apply to the use of medical supplies, chemicals, or materials by an organ procurement organization ((~~exempt under RCW 82.04.326~~)). The definitions of organ procurement organization, medical supplies, chemicals, and materials in RCW 82.08.02807 apply to this section. This exemption does not apply to the use of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

**Sec.**  RCW 82.12.0311 and 1988 c 68 s 2 are each amended to read as follows:

The provisions of this chapter ((~~shall~~)) do not apply with respect to the use of materials and supplies directly used in the packing of fresh perishable horticultural products ((~~by any person entitled to a deduction under RCW 82.04.4287~~)) for farmers, either as an agent or an independent contractor.

**Sec.**  RCW 82.12.970 and 2017 3rd sp.s. c 37 s 522 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" ((~~has the same meaning as provided in RCW 82.04.240(2)~~)) means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.14B.061 and 2022 c 203 s 26 are each amended to read as follows:

(1) The department must administer and adopt rules as may be necessary to enforce and administer the state and county 911 excise taxes imposed or authorized by this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of the state and county 911 excise taxes.

(2) The state and county 911 excise taxes imposed or authorized by this chapter, along with reports and returns on forms prescribed by the department, are due at the same time the taxpayer reports other taxes under RCW 82.32.045 on the combined excise tax return. If no other taxes are reported under RCW 82.32.045 on the combined excise tax return, the taxpayer must remit tax on an annual basis in accordance with RCW 82.32.045.

(3) The department may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year.

(4) The state and county 911 excise taxes imposed or authorized by this chapter are in addition to any taxes imposed upon the same persons under chapters 82.08, 82.12, and 82.14 RCW.

(5) Returns must be filed electronically using the department's online tax filing service or other method of electronic reporting as the department may authorize as provided in RCW 82.32.080.

**Sec.**  RCW 82.16.0496 and 2022 c 182 s 308 are each amended to read as follows:

(1)(a)(i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

|  |  |  |  |
| --- | --- | --- | --- |
| Gross Vehicle Weight | Incremental Cost Amount | Maximum Credit AmountPer Vehicle | Maximum Annual CreditPer Vehicle Class |
| Up to 14,000 pounds | 75% of incremental cost | $25,000 | $2,000,000 |
| 14,001 to 26,500 pounds | 75% of incremental cost | $50,000 | $2,000,000 |
| Above 26,500 pounds | 75% of incremental cost | $100,000 | $2,000,000 |

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to 50 percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of $2,000,000.

(b) On September 1st of each year, any unused credits from any category identified in (a) of this subsection must be made available to applicants applying for credits under any other category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section ((~~and RCW 82.04.4496~~)) is subject to a maximum annual credit amount of $6,000,000, and a maximum total credit amount of $32,500,000 beginning July 15, 2015.

(c) The credit provided in (a)(i) of this subsection is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in (a)(i) of this subsection multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of $25,000 or 50 percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of $250,000 or 25 vehicles per person per calendar year.

(4) ((~~A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.~~

~~(5)~~)) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section((~~, and RCW 82.04.4496,~~)) during any calendar year to exceed $6,000,000. The department must provide notification on its website monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section ((~~and RCW 82.04.4496~~)) to exceed $32,500,000. The department must provide notification on its website monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

((~~(6)~~)) (5) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

((~~(7)~~)) (6) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

((~~(8)~~)) (7) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;

(iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;

(vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;

(vii) The gross weight of each vehicle for vehicle credits;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within 15 days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;

(ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit;

(iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within 30 days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

(i) A copy of the final invoice for the vehicle or infrastructure-related items;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of each vehicle;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

((~~(9)~~)) (8) A person applying for credit under subsection ((~~(8)~~)) (7) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

((~~(10)~~)) (9) To administer the credits, the department must, at a minimum:

(a) Provide notification on its website monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit and total limit are reached;

(b) Within 15 days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within 15 days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within 15 days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

((~~(11)~~)) (10) If a person fails to supply the information as required in subsection ((~~(8)~~)) (7) of this section, the department must deny the application.

((~~(12)~~)) (11)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel;

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

((~~(13)~~)) (12) The definitions in ((~~RCW 82.04.4496~~)) this subsection apply to this section:

(a) "Alternative fuel vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a clean alternative fuel vehicle.

(b) "Auto transportation company" means any corporation or person owning, controlling, operating, or managing any motor propelled vehicle, used in the business of transporting persons for compensation over public highways within the state of Washington, between fixed points or over a regular route. For the purposes of this section, "auto transportation company" also includes the following categories of providers irrespective of whether they provide service between fixed points or over a regular route: "Private, nonprofit transportation provider" as defined in RCW 81.66.010, "charter party carrier" as defined in RCW 81.70.020, and paratransit service providers who primarily provide special needs transportation to individuals with disabilities and the elderly.

(c) "Clean alternative fuel" means electricity, dimethyl ether, hydrogen, methane, natural gas, liquefied natural gas, compressed natural gas, or propane.

(d) "Commercial vehicle" means any commercial vehicle that is purchased by a private business and that is used exclusively in the provision of commercial services or the transportation of commodities, merchandise, produce, refuse, freight, animals, or passengers, and that is displaying a Washington state license plate. All commercial vehicles that provide transportation to passengers must be operated by an auto transportation company.

(e) "Gross capitalized cost" means the agreed-upon value of the commercial vehicle and including any other items a person pays over the lease term that are included in such cost.

(f) "Lease reduction factor" means the vehicle gross capitalized cost less the residual value, divided by the gross capitalized cost.

(g) "Qualifying used commercial vehicle" means vehicles that:

(i) Have an odometer reading of less than 450,000 miles;

(ii) Are less than 10 years past their original date of manufacture;

(iii) Were modified after the initial purchase with a United States environmental protection agency certified conversion that would allow the propulsion units to be principally powered by a clean alternative fuel; and

(iv) Are being sold for the first time after modification.

(h) "Residual value" means the lease-end value of the vehicle as determined by the lessor, at the end of the lease term included in the lease contract.

((~~(14)~~)) (13) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

((~~(15)~~)) (14) Credits may be earned under this section from January 1, 2016, until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, until the maximum total credit amount in subsection (1)(b) of this section is reached.

**Sec.**  RCW 82.16.100 and 2001 c 320 s 8 are each amended to read as follows:

The business of collection, receipt, transfer, including transportation between any locations, storage, or disposal of solid waste is not subject to this chapter. Any such business activities are subject to taxation under ((~~the classification in RCW 82.04.290(2)~~)) chapter 82.04 RCW. "Solid waste" for purposes of this section is defined in RCW 82.18.010.

**Sec.**  RCW 82.16.325 and 2022 c 119 s 2 are each amended to read as follows:

(1) This chapter shall not apply to any person hauling agricultural products or farm machinery or equipment for a farmer or for a person performing custom farming services, when the person providing the hauling and the farmer or person performing custom farming services are related.

(2) The exemption provided by this section shall not apply to the hauling of any substances or articles manufactured from agricultural products. For the purposes of this subsection, "manufactured" has the same meaning as "to manufacture" in RCW 82.04.120.

(3)(a) "Custom farming services" means the performance of specific farming operations through the use of any farm machinery or equipment, farm implement, or draft animal, together with an operator, when: (i) The specific farming operation consists of activities directly related to the growing, raising, or producing of any agricultural product to be sold or consumed by a farmer; and (ii) the performance of the specific farming operation is for, and under a contract with, or the direction or supervision of, a farmer. "Custom farming services" does not include the custom application of fertilizers, chemicals, or biologicals, or any services related to the growing, raising, or producing of cannabis. For the purposes of this subsection (3)(a), "specific farming operation" includes specific planting, cultivating, or harvesting activities, or similar specific farming operations. "Specific farming operation" does not include veterinary services as described in RCW 18.92.010; farrier, boarding, training, or appraisal services; artificial insemination or stud services, or agricultural consulting services; packing or processing of agricultural products; or pumping or other waste disposal services.

(b) "Eligible farmer" means a person who is eligible for an exemption certificate under RCW 82.08.855 at the time that the custom farming services are rendered, regardless of whether the person has applied for an exemption certificate under RCW 82.08.855.

(c) "Farm management services" means the consultative decisions made for the operations of the farm including, but not limited to, determining which crops to plant, the choice and timing of application of fertilizers and chemicals, the horticultural practices to apply, the marketing of crops and livestock, and the care and feeding of animals. "Farm management services" does not include any services related to the growing, raising, or producing of cannabis.

(d) "Related" means having any of the relationships specifically described in section 267(b) (1), (2), and (4) through (13) of the internal revenue code as of January 1, 2007.

(4) The definitions in RCW 82.04.213 ((~~and 82.04.758~~)) apply to this section.

**Sec.**  RCW 82.19.050 and 2005 c 289 s 1 are each amended to read as follows:

The litter tax imposed in this chapter does not apply to:

(1) The manufacture or sale of products for use and consumption outside the state;

(2) The value of products or gross proceeds of the ((~~sales exempt from tax under RCW 82.04.330~~)) wholesale sale of agricultural products by a farmer;

(3)(a) The sale of products for resale by a qualified grocery distribution cooperative to customer-owners of the grocery distribution cooperative.

(b) For the purposes of this ((~~section, "qualified grocery distribution cooperative" and "customer-owner" have the meanings given in RCW 82.04.298~~)) subsection:

(i) "Qualified grocery distribution cooperative" means:

(A) A grocery distribution cooperative that has been determined by a court of record of the state of Washington to not be engaged in making sales at wholesale, within the meaning of RCW 82.04.060 or any similar provision of a municipal ordinance that imposes a tax on gross receipts, gross proceeds of sales, or gross income, with respect to purchases made by customer-owners, and subsequently changes its form of doing business to make sales at wholesale of groceries or related items to its customer-owners; or

(B) A grocery distribution cooperative that has acquired substantially all of the assets of a grocery distribution cooperative described in (b)(i)(A) of this subsection (3).

(ii) "Customer-owner" means a person who has an ownership interest in a grocery distribution cooperative and purchases groceries and related items at wholesale from that grocery distribution cooperative;

(4) The sale of food or beverages by retailers that are sold solely for immediate consumption indoors at the seller's place of business or at a deck or patio at the seller's place of business, or indoors at an eating area that is contiguous to the seller's place of business; or

(5)(a) The sale of prepared food or beverages by caterers where the food or beverages are to be served for immediate consumption in or on individual nonsingle use containers at premises occupied or controlled by the customer.

(b) For the purposes of this subsection, the following definitions apply:

(i) "Prepared food" has the same meaning as provided in RCW 82.08.0293.

(ii) "Nonsingle use container" means a receptacle for holding a single individual's food or beverage that is designed to be used more than once. Nonsingle use containers do not include pizza delivery bags and similar insulated containers that do not directly contact the food. Nonsingle use containers do not include plastic or paper plates or other containers that are disposable.

(iii) "Caterer" means a person contracted to prepare food where the final cooking or serving occurs at a location selected by the customer.

**Sec.**  RCW 82.29A.137 and 2017 c 135 s 35 are each amended to read as follows:

(1) All leasehold interests in port district facilities exempt from tax under RCW 82.08.980 or 82.12.980 and used by a manufacturer engaged in the manufacturing of superefficient airplanes, as defined in RCW 82.32.550, are exempt from tax under this chapter. ((~~A person claiming the credit under RCW 82.04.4463 is not eligible for the exemption under this section.~~))

(2) In addition to all other requirements under this title, a person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) This section expires July 1, 2040.

**Sec.**  RCW 82.32.030 and 2017 c 323 s 505 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, if any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, ((~~he or she~~)) that person must, under such rules as the department prescribes, apply for and obtain from the department a registration certificate. Such registration certificate is personal and nontransferable and is valid as long as the ((~~taxpayer~~)) person continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one ((~~taxpayer~~)) person, a separate registration certificate for each place at which business is transacted with the public is required. Each certificate must be numbered and must show the name, residence, and place and character of business of the ((~~taxpayer~~)) person and such other information as the department of revenue deems necessary and must be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the ((~~taxpayer~~)) person is changed, the ((~~taxpayer~~)) person must return to the department the existing certificate, and a new certificate will be issued for the new place of business. No person required to be registered under this section may engage in any business taxable hereunder without first being so registered. The department, by rule, may provide for the issuance of certificates of registration to temporary places of business.

(2) Unless the person is a dealer as defined in RCW 9.41.010, registration under this section is not required if the following conditions are met:

(a) ((~~A~~)) (i) The person does not have substantial nexus with this state under RCW 82.04.067; or

(ii) For a person with substantial nexus with this state under RCW 82.04.067(1) (a), (b), or (c)(ii), the person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twelve thousand dollars per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twelve thousand dollars per year;

(c) The person is not required to collect or pay to the department of revenue any other tax or fee that the department is authorized to collect; and

(d) The person is not otherwise required to obtain a license subject to the business license application procedure provided in chapter 19.02 RCW.

(3) All persons who agree to collect and remit sales and use tax to the department under the agreement must register through the central registration system authorized under the agreement. Persons required to register under subsection (1) of this section are not relieved of that requirement because of registration under this subsection (3).

(4) Persons registered under subsection (3) of this section who are not required to register under subsection (1) of this section and who are not otherwise subject to the requirements of chapter 19.02 RCW are not subject to the fees imposed by the department under the authority of RCW 19.02.075.

**Sec.**  RCW 82.32.450 and 2001 c 214 s 12 are each amended to read as follows:

(1) The total combined credits and deferrals that may be taken under RCW ((~~82.04.447,~~)) 82.12.024((~~,~~)) and 82.16.0495 shall not exceed two million five hundred thousand dollars in any fiscal year. Each ((~~person~~)) taxpayer is limited to no more than a total of one million five hundred thousand dollars in tax deferred and credit allowed in any fiscal year in which more than one ((~~person~~)) taxpayer takes tax credits and claims tax deferral. The department may require reporting of the credits taken and amounts deferred in a manner and form as is necessary to keep a running total of the amounts.

(2) Credits and deferred tax are available on a first come basis. Priority for tax credits and deferrals among approved applicants shall be designated based on the first actual consumption of gas under RCW ((~~82.04.447 or~~)) 82.12.024, or on the first actual use of electricity under RCW 82.16.0495, by each approved applicant. The department shall disallow any credits or deferred tax, or portion thereof, that would cause the total amount of credits taken and deferred taxes claimed to exceed the fiscal year cap or to exceed the per ((~~person~~)) taxpayer fiscal year cap. If the fiscal cap is reached or exceeded((~~[,]~~)), the department shall notify those ((~~persons~~)) taxpayers who have approved applications under RCW ((~~82.04.447,~~)) 82.12.024((~~,~~)) and 82.16.0495 that no more credits may be taken or tax deferred during the remainder of the fiscal year. In addition, the department shall provide written notice to any ((~~person~~)) taxpayer who has taken any tax credits or claimed any deferred tax in excess of the fiscal year cap. The notice shall indicate the amount of tax due and shall provide that the tax be paid within thirty days from the date of such notice.

(3) No portion of an application for credit or deferral disallowed under this section may be carried back or carried forward nor may taxes ineligible for credit or deferral due to the fiscal cap having been reached or exceeded be carried forward or carried backward.

**Sec.**  RCW 82.32.534 and 2022 c 56 s 10 are each amended to read as follows:

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

(ii) If the tax preference is a deferral of tax, the first annual tax performance report must be filed by May 31st of the calendar year following the calendar year in which the investment project is certified by the department as operationally complete. An annual tax performance report must also be filed by May 31st of each succeeding calendar year through the calendar year in which the deferred taxes are fully repaid or are immediately due and payable because the recipient of the deferral is no longer eligible for the deferral.

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

(b) The report must include information detailing employment and wages for employment positions in Washington for the year that the tax preference was claimed. However, ((~~persons~~)) taxpayers engaged in manufacturing commercial airplanes or components of such airplanes may report employment and wage information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed. In lieu of reporting employment and wage data required under this subsection, taxpayers may instead opt to allow the employment security department to release the same employment and wage information from unemployment insurance records to the department and the joint legislative audit and review committee. This option is intended to reduce the reporting burden for taxpayers, and each taxpayer electing to use this option must affirm that election in accordance with procedures approved by the employment security department.

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

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

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

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

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

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

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

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

(iii) If the tax preference is a deferral of tax, the amount immediately due under this subsection is the deferred tax divided by the number of years in the repayment period. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

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

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

(6) For the purposes of this section:

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

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

**Sec.**  RCW 82.32.537 and 2017 3rd sp.s. c 37 s 708 are each amended to read as follows:

(1)(a) A silicon smelter operated by a ((~~person~~)) taxpayer required to submit an annual survey or report under RCW 82.16.315((~~, 82.04.545,~~)) or 82.12.022 must repay an amount equal to the entire economic benefit accruing to the ((~~person~~)) taxpayer for the previous two calendar years due to the tax preferences under RCW 82.16.315((~~, 82.04.545,~~)) or 82.12.022 if:

(i) The average number of employment positions at a silicon smelter operated by the ((~~person~~)) taxpayer is less than one hundred employment positions, as reported to the employment security department for the previous two calendar years; and

(ii) The average annual wage for all employment positions is equal to or less than the average annual wage for the county in which the silicon smelter operation is located for the previous two calendar years. The department must use the finalized 2015 county wage data from the census of employment and wages as reported by the employment security department.

(b) The department must make the determinations under (a)(i) and (ii) of this subsection (1) by August 31, 2023.

(2) If any tax preference amounts must be repaid under subsection (1) of this section, the department must declare the tax preference amounts to be immediately due and payable. The department must assess interest, but not penalties, on the amounts due under this subsection. The department must assess interest at the rate provided for delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and such interest accrues until the tax preference amounts are repaid.

(3) If any tax preference amounts must be repaid under subsection (1) of this section, the ((~~person~~)) taxpayer may not continue to benefit from the tax preferences under RCW 82.16.315((~~, 82.04.545,~~)) or 82.12.022.

**Sec.**  RCW 82.32.670 and 2017 c 323 s 401 are each amended to read as follows:

(1)(a) Automated sales suppression devices, phantom‑ware, electronic cash registers or point of sale systems used with automated sales suppression devices or phantom‑ware, and any property constituting proceeds traceable to any violation of RCW 82.32.290(4) are considered contraband and are subject to seizure and forfeiture.

(b) Property subject to forfeiture under (a) of this subsection (1) may be seized by any agent of the department authorized to assess or collect taxes, or law enforcement officer of this state, upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(i) The seizure is incident to an arrest or a search under a search warrant; or

(ii) The department or the law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of RCW 82.32.290(4) and exigent circumstances exist making procurement of a search warrant impracticable.

(2) Forfeiture authorized by this section is deemed to have commenced by the seizure. Notice of seizure must be given to the department if the seizure is made by a law enforcement officer without the presence of any agent of the department. The department must cause notice of the seizure and intended forfeiture to be served on the owner of the property seized, if known, and on any other person known by the department to have a right or interest in the seized property. Such service must be made within fifteen days following the seizure or the department's receipt of notification of the seizure. The notice may be served by any method authorized by law or court rule, by certified mail with return receipt requested, or electronically in accordance with RCW 82.32.135. Service by certified mail or electronic means is deemed complete upon mailing the notice, electronically sending the notice, or electronically notifying the person or persons entitled to the notice that the notice is available to be accessed by the person or persons, within the fifteen‑day period following the seizure or the department's receipt of notification of the seizure.

(3) If no person notifies the department in writing of the person's claim of lawful ownership or right to lawful possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the item or items seized are deemed forfeited.

(4)(a) If any person notifies the department, in writing, of the person's claim of lawful ownership or lawful right to possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the person or persons must be afforded a reasonable opportunity to be heard as to the claim. The hearing must be before the director or the director's designee. A hearing and any administrative or judicial review is governed by chapter 34.05 RCW. The burden of proof by a preponderance of the evidence is upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the item or items seized.

(b) The department must return the item or items to the claimant as soon as possible upon a determination that the claimant is the present lawful owner or is lawfully entitled to possession of the item or items seized.

(5) When property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of RCW 82.32.290(4), the department must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of RCW 82.32.290(4).

(6)(a) When automated sales suppression devices or phantom-ware voluntarily surrendered to an agent of the department, or property forfeited under this section, other than proceeds traceable to a violation of RCW 82.32.290(4), is no longer required for evidentiary purposes, the department may:

(i) Destroy or have the property destroyed;

(ii) Retain the property for training or other official purposes; or

(iii) Loan or give the property to any law enforcement or tax administration agency of any state, political subdivision or municipal corporation of a state, or the United States for training or other official purposes. For purposes of this subsection (6)(a)(iii), "state" has the same meaning as in ((~~RCW 82.04.462~~)) section 208 of this act.

(b) When proceeds traceable to a violation of RCW 82.32.290(4) forfeited under this section are no longer required for evidentiary purposes, they must be deposited into the general fund.

(7) The definitions in this subsection apply to this section:

(a) "Automated sales suppression device" means a software program that falsifies the electronic records of electronic cash registers or other point of sale systems, including transaction data and transaction reports. The term includes the software program, any device that carries the software program, or an internet link to the software program.

(b) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing sales transaction data in whatever manner.

(c) "Phantom‑ware" means a programming option that is hidden, preinstalled, or installed‑at‑a‑later‑time in the operating system of an electronic cash register or other point of sale device, or hardwired into the electronic cash register or other point of sale device, and that can be used to create a virtual second till or may eliminate or manipulate transaction reports that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register or other point of sale device.

(d) "Transaction data" means information about sales transactions, including items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(e) "Transaction reports" means a report that includes information associated with sales transactions, taxes collected, media totals, and discount voids at an electronic cash register that can be printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register or other point of sale device and that is stored electronically.

**Sec.**  RCW 82.32.710 and 2017 c 135 s 7 are each amended to read as follows:

(1) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of eligibility for any tax credit, exemption, or other tax incentive, arising as the result of the employment of covered employees, provided in RCW ((~~82.04.4333, 82.04.44525, 82.04.448, 82.04.4483,~~)) 82.08.965, 82.12.965, 82.16.0495, or 82.60.049 or chapter 82.62 or 82.70 RCW, or any other provision in this title. A client, and not the professional employer organization, is entitled to the benefit of any tax credit, exemption, or other tax incentive arising as the result of the employment of covered employees of that client.

(2) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of tax performance reports that require the reporting of employment information relating to covered employees of the client, as provided in RCW 82.32.534. A client, and not the professional employer organization, is required to complete any tax performance report that requires the reporting of employment information relating to covered employees of that client.

(3) For the purposes of this section, "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540.

**Sec.**  RCW 82.32.790 and 2022 c 56 s 11 are each amended to read as follows:

(1)(a) Sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, 2024.

(b) For the purposes of this section:

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

(ii) "Semiconductor microchip fabrication" means ((~~"manufacturing semiconductor microchips" as defined in RCW 82.04.426~~)) taking raw polished semiconductor wafers and embedding integrated circuits on the wafers using processes such as masking, etching, and diffusion.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

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

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

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

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

(b) The department must provide written notice of the expiration date of this section and the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

**Sec.**  RCW 82.45.195 and 2014 c 97 s 308 are each amended to read as follows:

A sale of standing timber is exempt from tax under this chapter if the gross income from such sale is taxable under RCW ((~~82.04.260(12)(d)~~)) 82.04.261.

**Sec.**  RCW 84.36.645 and 2017 3rd sp.s. c 37 s 514 are each amended to read as follows:

(1) Machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 used in manufacturing semiconductor materials at a building exempt from sales and use tax and in compliance with the employment requirement under RCW 82.08.965 and 82.12.965 are exempt from property taxation. "Semiconductor materials" has the same meaning as provided in RCW ((~~82.04.240(2)~~)) 82.08.965.

(2) A person seeking this exemption must make application to the county assessor, on forms prescribed by the department.

(3) A person claiming an exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section is effective for taxes levied for collection one year after the effective date of section 150, chapter 114, Laws of 2010 and thereafter.

(5) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 84.36.655 and 2017 c 135 s 46 are each amended to read as follows:

(1) Effective January 1, 2005, all buildings, machinery, equipment, and other personal property of a lessee of a port district eligible under RCW 82.08.980 and 82.12.980, used exclusively in manufacturing superefficient airplanes, are exempt from property taxation. ((~~A person taking the credit under RCW 82.04.4463 is not eligible for the exemption under this section.~~)) For the purposes of this section, "superefficient airplane" and "component" have the meanings given in RCW 82.32.550.

(2) In addition to all other requirements under this title, a person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) Claims for exemption authorized by this section must be filed with the county assessor on forms prescribed by the department and furnished by the assessor. The assessor must verify and approve claims as the assessor determines to be justified and in accordance with this section. No claims may be filed after December 31, 2039. The department may adopt rules, under the provisions of chapter 34.05 RCW, as necessary to properly administer this section.

(4) This section applies to taxes levied for collection in 2006 and thereafter.

(5) This section expires July 1, 2040.

**Sec.**  RCW 88.40.011 and 2022 c 202 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Barge" means a vessel that is not self-propelled.

(2) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(3) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, fishing vessel, or a passenger vessel, of three hundred or more gross tons.

(4) "Certificate of financial responsibility" means an official written acknowledgment issued by the director or the director's designee that an owner or operator of a covered vessel or facility, or the owner of the oil, has demonstrated to the satisfaction of the director or the director's designee that the relevant entity has the financial ability to pay for costs and damages caused by an oil spill.

(5) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(6) "Department" means the department of ecology.

(7) "Director" means the director of the department of ecology.

(8)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from any vessel with an oil carrying capacity over two hundred fifty barrels or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an ((~~exempt agricultural~~)) activity ((~~as provided in RCW 82.04.330~~)) consisting of the wholesale sale of agricultural products by a farmer, as those terms are defined in RCW 82.04.060 and 82.04.213, or involving land enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; (iv) underground storage tank regulated by the department or a local government under chapter 70A.355 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(9) "Fishing vessel" means a self-propelled commercial vessel of three hundred or more gross tons that is used for catching or processing fish.

(10) "Gross tons" means tonnage as determined by the United States coast guard under 33 C.F.R. section 138.30.

(11) "Hazardous substances" means any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and

(b) Wastes listed as K001 through K136 in Table 302.4.

(12) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(13) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(14) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(15) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(16)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(17) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(18) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(19) "Spill" means an unauthorized discharge of oil into the waters of the state.

(20) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(21) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

**Sec.**  RCW 88.46.010 and 2020 c 20 s 1490 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

(a) The additional protection provided by the measures;

(b) The technological achievability of the measures; and

(c) The cost of the measures.

(2)(a) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration:

(i) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development; and

(ii) Processes that are currently in use.

(b) In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(6) "Department" means the department of ecology.

(7) "Director" means the director of the department of ecology.

(8) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(9)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided under (b) of this subsection, a facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility ((~~that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330~~)) described in RCW 88.40.011(8)(b)(iii); (iv) underground storage tank regulated by the department or a local government under chapter 70A.355 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(10) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land. "Offshore facility" does not include a marine facility.

(13) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99‑499.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(18) "Race Rocks light" means the nautical landmark located southwest of the city of Victoria, British Columbia.

(19) "Regional vessels of opportunity response group" means a group of nondedicated vessels participating in a vessels of opportunity response system to respond when needed and available to spills in a defined geographic area.

(20) "Severe weather conditions" means observed nautical conditions with sustained winds measured at forty knots and wave heights measured between twelve and eighteen feet.

(21) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(22) "Spill" means an unauthorized discharge of oil into the waters of the state.

(23) "Strait of Juan de Fuca" means waters off the northern coast of the Olympic Peninsula seaward of a line drawn from New Dungeness light in Clallam county to Discovery Island light on Vancouver Island, British Columbia, Canada.

(24) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(25) "Umbrella plan holder" means a nonprofit corporation established consistent with this chapter for the purposes of providing oil spill response and contingency plan coverage.

(26) "Vessel emergency" means a substantial threat of pollution originating from a covered vessel, including loss or serious degradation of propulsion, steering, means of navigation, primary electrical generating capability, and seakeeping capability.

(27) "Vessels of opportunity response system" means nondedicated boats and operators, including fishing and other vessels, that are under contract with and equipped by contingency plan holders to assist with oil spill response activities, including on-water oil recovery in the nearshore environment and the placement of oil spill containment booms to protect sensitive habitats.

(28) "Volunteer coordination system" means an oil spill response system that, before a spill occurs, prepares for the coordination of volunteers to assist with appropriate oil spill response activities, which may include shoreline protection and cleanup, wildlife recovery, field observation, light construction, facility maintenance, donations management, clerical support, and other aspects of a spill response.

(29) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(30) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

**Sec.**  RCW 90.56.010 and 2020 c 20 s 1505 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration (a) processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and (b) processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Board" means the pollution control hearings board.

(4) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(5) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(6) "Committee" means the preassessment screening committee established under RCW 90.48.368.

(7) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(8) "Crude oil" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

(9) "Department" means the department of ecology.

(10) "Director" means the director of the department of ecology.

(11) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(12)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) underground storage tank regulated by the department or a local government under chapter 70A.355 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is operated as part of an ((~~exempt agricultural~~)) activity ((~~as provided in RCW 82.04.330~~)) consisting of the wholesale sale of agricultural products by a farmer, as those terms are defined in RCW 82.04.060 and 82.04.213, or involving land enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(13) "Fund" means the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

(14) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(15) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(16) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(17) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; (c) conducting actions necessary to clean up the discharge; (d) conducting predamage and damage assessment studies; and (e) enforcing the provisions of this chapter and collecting for damages caused by a discharge.

(18) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(19) "Oil" or "oils" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99‑499.

(20) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(21)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(22) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(23) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(24) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(25) "Spill" means an unauthorized discharge of oil or hazardous substances into the waters of the state.

(26) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(27) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(28) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

**PART VII**

**REPEALERS**

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 43.365.050 (Review by joint legislative audit and review committee—Recommendation to legislature) and 2022 c 270 s 7 & 2006 c 247 s 7;

(2) RCW 82.04.212 ("Retail store or outlet") and 1961 c 15 s 82.04.212;

(3) RCW 82.04.220 (Business and occupation tax imposed) and 2021 c 145 s 5, 2019 c 8 s 103, 2017 3rd sp.s. c 28 s 303, 2011 1st sp.s. c 20 s 101, 2010 1st sp.s. c 23 s 102, & 1961 c 15 s 82.04.220;

(4) RCW 82.04.230 (Tax upon extractors) and 2006 c 300 s 5, 1993 sp.s. c 25 s 101, 1971 ex.s. c 281 s 2, 1969 ex.s. c 262 s 33, 1967 ex.s. c 149 s 7, & 1961 c 15 s 82.04.230;

(5) RCW 82.04.240 (Tax on manufacturers) and 2017 3rd sp.s. c 37 s 518, (2017 3rd sp.s. c 37 s 517 expired January 1, 2018), 2017 c 135 s 9, 2010 c 114 s 104, 2004 c 24 s 4, 2003 c 149 s 3, 1998 c 312 s 3, 1993 sp.s. c 25 s 102, 1981 c 172 s 1, 1979 ex.s. c 196 s 1, 1971 ex.s. c 281 s 3, 1969 ex.s. c 262 s 34, 1967 ex.s. c 149 s 8, 1965 ex.s. c 173 s 5, & 1961 c 15 s 82.04.240;

(6) RCW 82.04.250 (Tax on retailers) and 2014 c 97 s 402, (2014 c 97 s 401 expired July 9, 2014), 2013 3rd sp.s. c 2 s 7, 2010 1st sp.s. c 23 s 509, (2010 1st sp.s. c 23 s 508 expired July 1, 2011), (2010 1st sp.s. c 23 s 507 expired July 13, 2010), 2010 1st sp.s. c 11 s 1, (2010 c 114 s 106 expired July 1, 2011), 2008 c 81 s 5, (2007 c 54 s 5 repealed by 2010 1st sp.s. c 11 s 7), 2006 c 177 s 5, 2003 2nd sp.s. c 1 s 2, & (2003 1st sp.s. c 2 s 1 expired July 1, 2006);

(7) RCW 82.04.255 (Tax on real estate brokers) and 2011 c 322 s 2, 1997 c 7 s 1, 1996 c 1 s 1, 1993 sp.s. c 25 s 202, 1985 c 32 s 2, 1983 2nd ex.s. c 3 s 1, 1983 c 9 s 1, & 1970 ex.s. c 65 s 3;

(8) RCW 82.04.257 (Tax on digital products and services) and 2017 c 323 s 515, 2010 c 111 s 301, & 2009 c 535 s 401;

(9) RCW 82.04.258 (Digital products—Apportionable income) and 2017 c 323 s 516 & 2009 c 535 s 402;

(10) RCW 82.04.260 (Tax on manufacturers and processors of various foods and by-products—Research and development organizations—Travel agents—Certain international activities—Stevedoring and associated activities—Low-level waste disposers—Insurance producers, surplus line brokers, and title insurance agents—Hospitals—Commercial airplane activities—Timber product activities—Canned salmon processors) and 2022 c 16 s 140, 2021 c 145 s 7, & 2020 c 165 s 3;

(11) RCW 82.04.2602 (Tax on commercial airplane activities—Conditions for rate reduction) and 2020 c 165 s 2;

(12) RCW 82.04.263 (Tax on cleaning up radioactive waste and other by-products of weapons production and nuclear research and development) and 2009 c 469 s 202 & 1996 c 112 s 3;

(13) RCW 82.04.270 (Tax on wholesalers) and 2004 c 24 s 5, 2003 2nd sp.s. c 1 s 5, 2001 1st sp.s. c 9 s 3, (2001 1st sp.s. c 9 s 2 expired July 1, 2001), & 1999 c 358 s 2;

(14) RCW 82.04.272 (Tax on warehousing and reselling prescription drugs) and 2013 c 19 s 127, 2003 c 168 s 401, & 1998 c 343 s 1;

(15) RCW 82.04.29001 (Creation and distribution of custom software—Customization of prewritten computer software—Taxable services) and 2003 c 168 s 602 & 1998 c 332 s 4;

(16) RCW 82.04.29002 (Additional tax on certain business and service activities) and 2010 1st sp.s. c 23 s 1101;

(17) RCW 82.04.29005 (Tax on loan interest—2012 2nd sp.s. c 6) and 2012 2nd sp.s. c 6 s 101;

(18) RCW 82.04.2905 (Tax on providing day care) and 1998 c 312 s 7;

(19) RCW 82.04.2906 (Tax on certain chemical dependency services) and 2003 c 343 s 1;

(20) RCW 82.04.2907 (Tax on royalties) and 2021 c 145 s 9, 2015 3rd sp.s. c 5 s 101, 2010 1st sp.s. c 23 s 107, (2010 1st sp.s. c 23 s 106 expired July 1, 2010), 2010 c 111 s 302, 2009 c 535 s 407, 2001 c 320 s 3, & 1998 c 331 s 1;

(21) RCW 82.04.2908 (Tax on provision of room and domiciliary care to assisted living facility residents) and 2012 c 10 s 70, 2005 c 514 s 302, & 2004 c 174 s 1;

(22) RCW 82.04.2909 (Tax on aluminum smelters) and 2017 c 135 s 12, 2015 3rd sp.s. c 6 s 502, & 2011 c 174 s 301;

(23) RCW 82.04.298 (Tax on qualified grocery distribution cooperatives) and 2011 c 2 s 204, 2010 1st sp.s. c 23 s 511, 2008 c 49 s 1, & 2001 1st sp.s. c 9 s 1;

(24) RCW 82.04.301 (Exemptions—Certain hospitals) and 2019 c 451 s 2;

(25) RCW 82.04.315 (Exemptions—International banking facilities) and 1982 c 95 s 7;

(26) RCW 82.04.317 (Exemptions—Motor vehicle sales by manufacturers at wholesale auctions to dealers) and 1997 c 4 s 1;

(27) RCW 82.04.321 (Exemptions—Qualified health plan patients) and 2019 c 364 s 9;

(28) RCW 82.04.326 (Exemptions—Qualified organ procurement organizations) and 2002 c 113 s 1;

(29) RCW 82.04.327 (Exemptions—Adult family homes) and 1987 1st ex.s. c 4 s 1;

(30) RCW 82.04.330 (Exemptions—Sales of agricultural products) and 2015 3rd sp.s. c 6 s 1103, 2014 c 140 s 7, 2001 c 118 s 3, 1993 sp.s. c 25 s 305, 1988 c 253 s 2, & 1987 c 23 s 4;

(31) RCW 82.04.331 (Exemptions—Wholesale sales to farmers of seed for planting, conditioning seed for planting owned by others) and 2022 c 16 s 141, 2014 c 140 s 8, & 1998 c 170 s 2;

(32) RCW 82.04.332 (Exemptions—Buying and selling at wholesale unprocessed milk, wheat, oats, dry peas, dry beans, lentils, triticale, canola, corn, rye, and barley) and 2007 c 131 s 1 & 1998 c 312 s 2;

(33) RCW 82.04.333 (Exemptions—Small harvesters) and 2011 c 101 s 4, 2007 c 48 s 5, & 1990 c 141 s 1;

(34) RCW 82.04.334 (Exemptions—Standing timber) and 2017 c 323 s 502, 2010 1st sp.s. c 23 s 512, & 2007 c 48 s 3;

(35) RCW 82.04.335 (Exemptions—Agricultural fairs) and 1965 ex.s. c 145 s 1;

(36) RCW 82.04.337 (Exemptions—Amounts received by hop growers or dealers for processed hops shipped outside the state) and 1987 c 495 s 1;

(37) RCW 82.04.338 (Exemptions—Hop commodity commission or hop commodity board business) and 1998 c 200 s 1;

(38) RCW 82.04.339 (Exemptions—Day care provided by churches) and 1992 c 81 s 1;

(39) RCW 82.04.3395 (Exemptions—Child care resource and referral services by nonprofit organizations) and 1995 2nd sp.s. c 11 s 3;

(40) RCW 82.04.355 (Exemptions—Ride sharing) and 2021 c 135 s 5, 1999 c 358 s 8, & 1979 c 111 s 17;

(41) RCW 82.04.363 (Exemptions—Camp or conference center—Items sold or furnished by nonprofit organization) and 2009 c 535 s 409 & 1997 c 388 s 1;

(42) RCW 82.04.367 (Exemptions—Nonprofit organizations that are guarantee agencies, issue debt, or provide guarantees for student loans) and 1998 c 324 s 1 & 1987 c 433 s 1;

(43) RCW 82.04.368 (Exemptions—Nonprofit organizations—Credit and debt services) and 1993 c 390 s 1;

(44) RCW 82.04.370 (Exemptions—Certain fraternal and beneficiary organizations) and 1961 c 293 s 4 & 1961 c 15 s 82.04.370;

(45) RCW 82.04.392 (Exemptions—Mortgage brokers' third-party provider services trust accounts) and 1998 c 311 s 3 & 1997 c 106 s 21;

(46) RCW 82.04.399 (Exemptions—Sales of academic transcripts) and 1996 c 272 s 1;

(47) RCW 82.04.410 (Exemptions—Hatching eggs and poultry) and 1967 ex.s. c 149 s 15 & 1961 c 15 s 82.04.410;

(48) RCW 82.04.415 (Exemptions—Sand, gravel and rock taken from county or city pits or quarries, processing and handling costs) and 1965 ex.s. c 173 s 10;

(49) RCW 82.04.418 (Exemptions—Grants by United States government to municipal corporations or political subdivisions) and 1983 1st ex.s. c 66 s 2;

(50) RCW 82.04.4201 (Exemptions—Sales/leasebacks by regional transit authorities) and 2000 2nd sp.s. c 4 s 24;

(51) RCW 82.04.421 (Exemptions—Out-of-state membership sales in discount programs) and 1997 c 408 s 1;

(52) RCW 82.04.422 (Exemptions—Wholesale sales of motor vehicles) and 2004 c 81 s 1 & 2001 c 258 s 1;

(53) RCW 82.04.423 (Exemptions—Sales by certain out-of-state persons to or through direct seller's representatives) and 2010 1st sp.s. c 23 s 402 & 1983 1st ex.s. c 66 s 5;

(54) RCW 82.04.425 (Exemptions—Accommodation sales) and 2013 c 23 s 315, 1980 c 37 s 78, 1965 ex.s. c 173 s 9, & 1961 c 15 s 82.04.425;

(55) RCW 82.04.4251 (Exemptions—Convention and tourism promotion) and 2021 c 176 s 5244 & 2006 c 310 s 1;

(56) RCW 82.04.426 (Exemptions—Semiconductor microchips) and 2017 3rd sp.s. c 37 s 524, (2017 3rd sp.s. c 37 s 523 expired January 1, 2018), 2017 c 135 s 13, 2010 c 114 s 110, & 2003 c 149 s 2;

(57) RCW 82.04.4261 (Exemptions—Federal small business innovation research program) and 2004 c 2 s 9;

(58) RCW 82.04.4262 (Exemptions—Federal small business technology transfer program) and 2004 c 2 s 10;

(59) RCW 82.04.4263 (Exemptions—Income received by the life sciences discovery fund authority) and 2005 c 424 s 11;

(60) RCW 82.04.4264 (Exemptions—Nonprofit assisted living facilities—Room and domiciliary care) and 2021 c 176 s 5245, 2012 c 10 s 71, & 2005 c 514 s 301;

(61) RCW 82.04.4266 (Exemptions—Fruit and vegetable businesses) and 2022 c 16 s 142, 2020 c 139 s 5, 2015 3rd sp.s. c 6 s 202, 2014 c 140 s 9, 2012 2nd sp.s. c 6 s 201, 2011 c 2 s 202, 2010 1st sp.s. c 23 s 504, (2010 1st sp.s. c 23 s 503 expired June 10, 2010), 2010 c 114 s 111, 2006 c 354 s 3, & 2005 c 513 s 1;

(62) RCW 82.04.4267 (Exemptions—Operation of parking/business improvement areas) and 2005 c 476 s 1;

(63) RCW 82.04.4268 (Exemptions—Dairy product businesses) and 2020 c 139 s 6, 2015 3rd sp.s. c 6 s 203, 2013 2nd sp.s. c 13 s 204, 2012 2nd sp.s. c 6 s 202, 2010 c 114 s 112, & 2006 c 354 s 1;

(64) RCW 82.04.4269 (Exemptions—Seafood product businesses) and 2020 c 139 s 7, 2015 3rd sp.s. c 6 s 204, 2012 2nd sp.s. c 6 s 203, 2010 c 114 s 113, & 2006 c 354 s 2;

(65) RCW 82.04.427 (Exemptions and credits—Pollution control facilities);

(66) RCW 82.04.4271 (Deductions—Membership fees and certain service fees by nonprofit youth organization) and 1981 c 74 s 1;

(67) RCW 82.04.4272 (Deductions—Direct mail delivery charges) and 2005 c 514 s 114;

(68) RCW 82.04.4274 (Deductions—Nonprofit management companies—Personnel performing on-site functions) and 2011 1st sp.s. c 26 s 1;

(69) RCW 82.04.4275 (Deductions—Child welfare services) and 2011 c 163 s 1;

(70) RCW 82.04.4281 (Deductions—Investments, dividends, interest on loans) and 2007 c 54 s 9, 2002 c 150 s 2, & 1980 c 37 s 2;

(71) RCW 82.04.4287 (Deductions—Compensation for receiving, washing, etc., horticultural products for person exempt under RCW 82.04.330—Materials and supplies used) and 1980 c 37 s 8;

(72) RCW 82.04.4289 (Exemption—Compensation for patient services or attendant sales of drugs dispensed pursuant to prescription by certain nonprofit organizations) and 2003 c 168 s 402, 1998 c 325 s 1, 1993 c 492 s 305, 1981 c 178 s 2, & 1980 c 37 s 10;

(73) RCW 82.04.4290 (Deductions—Mental health services or substance use disorder treatment services) and 2021 c 124 s 3;

(74) RCW 82.04.4291 (Deductions—Compensation received by a political subdivision from another political subdivision for services taxable under RCW 82.04.290) and 1980 c 37 s 11;

(75) RCW 82.04.4292 (Deductions—Interest on investments or loans secured by mortgages or deeds of trust) and 2012 2nd sp.s. c 6 s 102, 2010 1st sp.s. c 23 s 301, & 1980 c 37 s 12;

(76) RCW 82.04.4294 (Deductions—Interest on loans to farmers and ranchers, producers or harvesters of aquatic products, or their cooperatives) and 1980 c 37 s 14;

(77) RCW 82.04.4295 (Deductions—Manufacturing activities completed outside the United States) and 1980 c 37 s 15;

(78) RCW 82.04.4296 (Deductions—Reimbursement for accommodation expenditures by funeral homes) and 1980 c 37 s 16;

(79) RCW 82.04.4297 (Deductions—Compensation from public entities for health or social welfare services—Exception) and 2011 1st sp.s. c 19 s 2, 2002 c 314 s 3, 2001 2nd sp.s. c 23 s 2, 1988 c 67 s 1, & 1980 c 37 s 17;

(80) RCW 82.04.4298 (Deductions—Repair, maintenance, replacement, etc., of residential structures and commonly held property—Eligible organizations) and 1980 c 37 s 18;

(81) RCW 82.04.4311 (Deductions—Compensation received under the federal medicare program by certain hospitals or health centers) and 2005 c 86 s 1 & 2002 c 314 s 2;

(82) RCW 82.04.432 (Deductions—Municipal sewer service fees or charges) and 1967 ex.s. c 149 s 17;

(83) RCW 82.04.4327 (Deductions—Artistic and cultural organizations) and 2020 c 139 s 8 & 1985 c 471 s 6;

(84) RCW 82.04.433 (Deductions—Sales of fuel for consumption outside United States' waters by vessels in foreign commerce) and 2009 c 494 s 2 & 1985 c 471 s 16;

(85) RCW 82.04.4331 (Deductions—Insurance claims for state health care coverage) and 1988 c 107 s 33;

(86) RCW 82.04.4332 (Deductions—Tuition fees of foreign degree-granting institutions) and 1993 c 181 s 10;

(87) RCW 82.04.4337 (Deductions—Certain amounts received by assisted living facilities) and 2012 c 10 s 72 & 2004 c 174 s 7;

(88) RCW 82.04.43391 (Deductions—Commercial aircraft loan interest and fees) and 2019 c 8 s 703, 2017 c 323 s 503, & 2010 1st sp.s. c 23 s 112;

(89) RCW 82.04.43392 (Deductions—Qualified dispute resolution centers) and 2012 c 249 s 1;

(90) RCW 82.04.43393 (Deductions—Paymaster services) and 2013 2nd sp.s. c 13 s 102;

(91) RCW 82.04.43395 (Deductions—Accountable community of health) and 2019 c 350 s 1 & 2018 c 102 s 2;

(92) RCW 82.04.43396 (Deductions—Scan-down allowances) and 2019 c 217 s 1;

(93) RCW 82.04.434 (Credit—Public safety standards and testing) and 1991 c 13 s 1;

(94) RCW 82.04.4451 (Credit against tax due—Maximum credit—Table) and 2022 c 295 s 1, 2010 1st sp.s. c 23 s 1102, 1997 c 238 s 2, & 1994 sp.s. c 2 s 1;

(95) RCW 82.04.44525 (Credit—New employment for international service activities in eligible areas—Designation of census tracts for eligibility—Records—Tax due upon ineligibility—Interest assessment—Information from employment security department) and 2009 c 535 s 1104, 2008 c 81 s 9, & 1998 c 313 s 2;

(96) RCW 82.04.4461 (Credit—Preproduction development expenditures) and 2017 c 135 s 15, 2013 3rd sp.s. c 2 s 9, 2010 c 114 s 115, 2008 c 81 s 7, 2007 c 54 s 11, & 2003 2nd sp.s. c 1 s 7;

(97) RCW 82.04.4463 (Credit—Property and leasehold taxes paid on property used for manufacture of commercial airplanes) and 2017 c 135 s 16, 2013 3rd sp.s. c 2 s 10, 2010 1st sp.s. c 23 s 515, (2010 1st sp.s. c 23 s 514 expired June 10, 2010), 2010 c 114 s 116, 2008 c 81 s 8, 2006 c 177 s 10, 2005 c 514 s 501, & 2003 2nd sp.s. c 1 s 15;

(98) RCW 82.04.447 (Credit—Natural or manufactured gas purchased by direct service industrial customers—Reports) and 2001 c 214 s 9;

(99) RCW 82.04.448 (Credit—Manufacturing semiconductor materials) and 2017 3rd sp.s. c 37 s 516, (2017 3rd sp.s. c 37 s 515 expired January 1, 2018), 2017 c 135 s 17, 2010 c 114 s 117, & 2003 c 149 s 9;

(100) RCW 82.04.4481 (Credit—Property taxes paid by aluminum smelter) and 2017 c 135 s 18, 2015 3rd sp.s. c 6 s 503, & 2011 c 174 s 302;

(101) RCW 82.04.4482 (Credit—Sales of electricity or gas to an aluminum smelter) and 2004 c 24 s 9;

(102) RCW 82.04.4486 (Credit—Syrup taxes paid by buyer) and 2006 c 245 s 1;

(103) RCW 82.04.4489 (Credit—Motion picture competitiveness program) and 2022 c 270 s 5, 2017 3rd sp.s. c 37 s 1102, 2012 c 189 s 4, 2008 c 85 s 3, & 2006 c 247 s 5;

(104) RCW 82.04.449 (Credit—Washington customized employment training program—Report to the legislature) and 2021 c 116 s 3, 2017 c 135 s 20, 2012 c 46 s 3, 2010 c 114 s 121, 2009 c 296 s 3, & 2006 c 112 s 5;

(105) RCW 82.04.4496 (Credit—Clean alternative fuel commercial vehicles) and 2022 c 182 s 307, 2019 c 287 s 8, & 2017 c 116 s 1;

(106) RCW 82.04.4498 (Credit—Businesses that hire veterans) and 2015 3rd sp.s. c 6 s 1002;

(107) RCW 82.04.460 (Apportionable income—Taxable in Washington and another state) and 2014 c 97 s 304, 2011 c 174 s 203, 2010 1st sp.s. c 23 s 108, 2004 c 174 s 6, 1985 c 7 s 154, 1983 2nd ex.s. c 3 s 28, 1975 1st ex.s. c 291 s 9, & 1961 c 15 s 82.04.460;

(108) RCW 82.04.462 (Apportionable income) and 2014 c 97 s 305 & 2010 1st sp.s. c 23 s 105;

(109) RCW 82.04.520 (Administrative provisions for motor vehicle sales by courtesy dealers) and 2001 c 258 s 2;

(110) RCW 82.04.545 (Exemptions—Sales of electricity or gas to silicon smelters) and 2017 3rd sp.s. c 37 s 705 & 2017 3rd sp.s. c 37 s 704;

(111) RCW 82.04.600 (Exemptions—Materials printed in county, city, town, school district, educational service district, library or library district) and 1979 ex.s. c 266 s 8;

(112) RCW 82.04.601 (Exemptions—Affixing stamp services for cigarette sales) and 2007 c 221 s 5;

(113) RCW 82.04.610 (Exemptions—Import or export commerce) and 2019 c 8 s 501 & 2007 c 477 s 2;

(114) RCW 82.04.620 (Exemptions—Certain prescription drugs) and 2007 c 447 s 1;

(115) RCW 82.04.627 (Exemptions—Commercial airplane parts) and 2015 c 86 s 301 & 2008 c 81 s 15;

(116) RCW 82.04.628 (Exemptions—Commercial fertilizer, agricultural crop protection products, and seed) and 2017 3rd sp.s. c 37 s 302;

(117) RCW 82.04.635 (Exemptions—Nonprofits providing legal services to low-income persons) and 2009 c 508 s 1;

(118) RCW 82.04.640 (Exemptions—Washington vaccine association—Certain assessments received) and 2010 c 174 s 16;

(119) RCW 82.04.645 (Exemptions—Financial institutions—Amounts received from certain affiliated persons) and 2011 c 174 s 102 & 2010 1st sp.s. c 23 s 110;

(120) RCW 82.04.650 (Exemptions—Investment conduits and securitization entities) and 2010 1st sp.s. c 23 s 111;

(121) RCW 82.04.660 (Exemptions—Environmental handling charges—Mercury-containing lights) and 2020 c 20 s 1469 & 2015 c 185 s 2;

(122) RCW 82.04.750 (Exemptions—Restaurant employee meals) and 2015 c 86 s 302 & 2011 c 55 s 1;

(123) RCW 82.04.755 (Exemptions—Grants received by a nonprofit organization for the program established under RCW 70A.200.140(1)(b)(ii)) and 2020 c 20 s 1470 & 2015 c 15 s 7;

(124) RCW 82.04.756 (Exemptions—Cannabis cooperatives) and 2022 c 16 s 143 & 2015 c 70 s 40;

(125) RCW 82.04.758 (Exceptions—Services for farms) and 2022 c 119 s 1;

(126) RCW 82.04.765 (Exemptions—Receipts attributable to assessment on architectural paint imposed pursuant to chapter 70A.515 RCW) and 2020 c 20 s 1471 & 2019 c 344 s 15;

(127) RCW 82.04.770 (Deduction of amounts derived from charge collected pursuant to chapter 70A.530 RCW) and 2020 c 138 s 8;

(128) RCW 82.04.775 (Application of chapter—Amounts received under chapter 70A.535 RCW) and 2021 c 317 s 16;

(129) RCW 82.04.900 (Construction—1961 c 15) and 1961 c 15 s 82.04.900; and

(130) RCW 82.32.533 (Digital products—Amnesty) and 2010 c 111 s 801 & 2009 c 535 s 1001.

NEW SECTION. **Sec.**  The repeals in section 701 of this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed in this act or under any rule or order adopted under those statutes, nor does it affect any proceeding instituted under those statutes.

**PART VIII**

**MISCELLANEOUS**

NEW SECTION. **Sec.**  RCW 82.32.805 and 82.32.808 do not apply to this act. This act does not affect the expiration date of any tax preference amended in this act.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person, taxpayer, or circumstance is held invalid, the remainder of the act or the application of the provision to other persons, taxpayers, or circumstances is not affected.

NEW SECTION. **Sec.**  The taxes imposed in this act apply beginning with business activity occurring on or after January 1, 2027.

NEW SECTION. **Sec.**  (1) Except for sections 645, 647, 651, and 666 of this act, this act takes effect January 1, 2027.

(2) Sections 645, 647, 651, and 666 of this act take effect January 1, 2027, if the contingency in RCW 82.32.790 occurs by January 1, 2024.

NEW SECTION. **Sec.**  Section 324 of this act expires if the contingency in section 20, chapter 196, Laws of 2021 occurs.

NEW SECTION. **Sec.**  Section 661 of this act expires January 1, 2024, if the contingency in section 1407, chapter 37, Laws of 2017 3rd sp. sess. occurs. Otherwise, it expires July 1, 2027.

**--- END ---**