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**ENGROSSED SENATE BILL 5309**

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

**By** Senators Lovelett, Rolfes, Hasegawa, Hunt, Keiser, Nguyen, and Nobles

AN ACT Relating to eliminating the state public utility tax deduction for the instate portion of interstate transport of petroleum products and crude oil; amending RCW 82.16.010; adding new sections to chapter 82.16 RCW; and creating a new section.

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

**Sec.**  RCW 82.16.010 and 2015 3rd sp.s. c 6 s 702 are each amended to read as follows:

For the purposes of this chapter, unless otherwise required by the context:

(1) "Crude oil" has the same meaning as provided in RCW 82.23B.010.

(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business.

((~~(2)~~)) (3) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

((~~(3)~~)) (4) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or 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.

((~~(4)~~)) (5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.

((~~(5)~~)) (6) "Log transportation business" means the business of transporting logs by truck, except when such transportation meets the definition of urban transportation business or occurs exclusively upon private roads.

((~~(6)~~)) (7) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier, or contract carrier as defined by RCW 81.68.010 and 81.80.010. However, "motor transportation business" does not mean or include: (a) A log transportation business; or (b) the transportation of logs or other forest products exclusively upon private roads or private highways.

((~~(7)~~)) (8) "Packaged for sale to ultimate consumers" means petroleum products that are prepared and packaged for sale at usual and ordinary retail outlets. The term includes containerized motor oil, lubricants, and aerosol solvents.

(9) "Petroleum products" has the same meaning as provided in RCW 82.21.020.

(10)(a) "Public service business" means any of the businesses defined in subsections ((~~(1),~~)) (2), ((~~(4), (6)~~)) (3), (5), (7), ((~~(8), (9), (10)~~)) (11), (12), (13), (15), and ((~~(13)~~)) (16) of this section or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature, except telephone business and low-level radioactive waste site operating companies as redefined in RCW 81.04.010. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.

(b) The definitions in this subsection ((~~(7)~~)) (10)(b) apply throughout this subsection ((~~(7)~~)) (10).

(i) "Competitive telephone service" has the same meaning as in RCW 82.04.065.

(ii) "Network telephone service" means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes the provision of transmission to and from the site of an internet provider via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, the providing of broadcast services by radio or television stations, nor the provision of internet access as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the internet service provider.

(iii) "Telephone business" means the business of providing network telephone service. It includes cooperative or farmer line telephone companies or associations operating an exchange.

(iv) "Telephone service" means competitive telephone service or network telephone service, or both, as defined in (b)(i) and (ii) of this subsection.

((~~(8)~~)) (11) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business.

((~~(9)~~)) (12) "Railroad car business" means the business of operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.

((~~(10)~~)) (13) "Telegraph business" means the business of affording telegraphic communication for hire.

((~~(11)~~)) (14) "Tugboat business" means the business of operating tugboats, towboats, wharf boats or similar vessels in the towing or pushing of vessels, barges or rafts for hire.

((~~(12)~~)) (15) "Urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property.

((~~(13)~~)) (16) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.

((~~(14)~~)) (17) The meaning attributed, in chapter 82.04 RCW, to the term "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provisions of this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) RCW 82.16.050 does not apply to amounts derived from the transportation of either petroleum products or crude oil, or both, which are not packaged for sale to ultimate consumers and such products, crude oil, or both are transported wholly within this state, between states, or between a state and a foreign country.

(2) For the purposes of this section, "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) Persons engaging both within and without this state in the business of transporting petroleum products, crude oil, or both, must apportion gross income as provided in this section.

(2)(a) Except as otherwise provided in this section, gross income must be apportioned to this state based on the ratio that revenue miles of the person in this state during the tax period bear to the revenue miles of the person everywhere during the tax period.

(b) Gross income includes only the amount for transporting either petroleum products or crude oil, or both, which are not packaged for sale to ultimate consumers and does not include gross income derived from transporting any other property or passengers.

(3) For persons that transport petroleum products or crude oil by pipeline, gross income must be apportioned to this state based on the ratio that the total number of traffic units in this state during the tax period bear to the total number of traffic units everywhere during the tax period.

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

(a) "One unit" means one barrel, as defined in RCW 82.23B.010, one gallon, one net ton, or other appropriate measure of product.

(b) "Revenue mile" means the transportation of one unit of taxable petroleum product or crude oil for the distance of one mile.

(c) "Traffic unit" means the movement of one unit of taxable petroleum product or crude oil for a distance of one mile.

NEW SECTION. **Sec.**  This act applies to amounts received on or after October 1, 2023.

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