SSB 5314 - H COMM AMD
By Committee on Appropriations

ADOPTED 04/11/2025

Strike everything after the enacting clause and insert the following:

"Sec. 1. 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 tax and capital gains tax, a credit is allowed against taxes due under this chapter 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.

(2) The credit may be used against any tax due under this chapter.

(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~~)) the 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~~)) an equal amount((~~s~~)) from the general fund to the workforce education investment account.

(5) This section expires January 1, 2026.

NEW SECTION. **Sec. 2.** (1) The expiration of RCW 82.04.4497 provided in RCW 82.04.4497(5) does not affect:

(a) Any existing right acquired or liability or obligation including, but not limited to:

(i) A taxpayer's liability for tax, penalty, or interest;

(ii) A taxpayer's ability to claim a credit under RCW 82.04.4497 earned from sales or exchanges that occurred before the expiration of RCW 82.04.4497; or

(iii) A taxpayer's ability to claim relief from tax, penalty, or interest;

(b) Any rule or order adopted under RCW 82.04.4497; or

(c) Any proceeding instituted under RCW 82.04.4497.

(2) For purposes of this section, "liability for tax" means that the obligation for payment of a tax has been incurred by a taxpayer, regardless of when the tax is payable or whether the amount of tax due has been established.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.87 RCW to read as follows:

(1) Beginning in tax year 2025 with taxes due in 2026, to avoid taxing the same sale or exchange under both the business and occupation tax and capital gains tax, a nonrefundable credit is allowed against taxes due under this chapter on a sale or exchange that is also subject to the tax imposed under chapter 82.04 RCW. The credit is equal to the amount of tax imposed under chapter 82.04 RCW on such sale or exchange.

(2) 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.

(3)(a) By the last working day in March, June, September, and December of each fiscal year, the state treasurer must transfer from the general fund to the education legacy trust account created in RCW 83.100.230 and the common school construction fund, as applicable, an amount equal to the reduction in capital gains taxes due to this section, as determined by the department under (b) of this subsection (3). Moneys transferred from the general fund pursuant to this

subsection (3)(a) must be distributed as provided in RCW 82.87.030 as if they were taxes collected under this chapter.

(b)(i) The department must notify the state treasurer of the amounts required to be transferred as provided in (a) of this subsection (3) no later than two weeks before the deadline for such transfers or such other date as may be mutually agreed to by the department and the state treasurer.

(ii) If the department determines, at any time, that a previous transfer amount determined under this subsection (3)(b) was overstated or understated for any reason, including an error in calculation by the department or a reporting error by the taxpayer, the department must adjust its calculation of the current amount to be transferred by an amount necessary to offset the previous overstatement or understatement.

(iii) No person may contest the department's determination under this subsection (3)(b) in any court more than 15 days after the department furnishes notice of such determination to the state treasurer. Any action contesting the department's determination must be made through a petition for judicial review pursuant to the administrative procedure act, chapter 34.05 RCW, and may only be filed in Thurston county. The person seeking judicial review is not required to exhaust any available administrative remedies.

(c) For purposes of this subsection (3), "reduction in capital gains taxes due to this section" means the reduction in taxes collected under this chapter due to the nonrefundable credit in this section, where such amounts have not already been offset by the transfer required by (a) of this subsection (3).

Sec. 4. RCW 82.87.020 and 2021 c 196 s 4 are each amended to read as follows:

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

(1) "Adjusted capital gain" means federal net long-term capital gain:

(a) Plus any amount of long-term capital loss from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such loss was included in calculating federal net long-term capital gain;

(b) Plus any amount of long-term capital loss from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to

the extent such loss was included in calculating federal net long-term capital gain;

(c) Plus any amount of long-term capital loss ((~~carryforward~~)) carryover that is carried forward from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such loss was included in calculating federal net long-term capital gain;

(d) Plus any amount of long-term capital loss carryover that is carried forward from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such loss was included in calculating federal net long-term capital gain;

(e) Plus any amount of long-term capital loss carryover that is carried forward from a sale or exchange that occurred before January 1, 2022, to the extent such loss was included in calculating federal net long-term capital gain;

(f) Plus any amount of long-term capital gain or loss from the sale or exchange of a section 1256 contract held for more than one year not included in the calculation of federal net long-term capital gain that would otherwise be included if Title 26 U.S.C. Sec. 1256 of the internal revenue code did not exist;

(g) Less any amount of long-term capital gain from a sale or exchange that is not allocated to Washington under RCW 82.87.100, to the extent such gain was included in calculating federal net long-term capital gain; and

((~~(e)~~)) (h) Less any amount of long-term capital gain from a sale or exchange that is exempt from the tax imposed in this chapter, to the extent such gain was included in calculating federal net long-term capital gain.

(2) "Capital asset" has the same meaning as provided by Title 26 U.S.C. Sec. 1221 of the internal revenue code and also includes any other property if the sale or exchange of the property results in a gain that is treated as a long-term capital gain under Title 26 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

(3) "Federal net long-term capital gain" means the net long-term capital gain reportable for federal income tax purposes determined as if Title 26 U.S.C. Secs. 55 through 59, 1256, 1400Z-1, and 1400Z-2 of the internal revenue code did not exist.

(4) "Individual" means a natural person.

(5) "Intangible personal property" means personal property that is not tangible personal property.

(6) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of July 25, 2021, or such subsequent date as the department may provide by rule consistent with the purpose of this chapter.

((~~(6)~~)) (7) "Long-term capital asset" means a capital asset that is held for more than one year.

((~~(7)~~)) (8) "Long-term capital gain" means gain from the sale or exchange of a long-term capital asset.

((~~(8)~~)) (9) "Long-term capital loss" means a loss from the sale or exchange of a long-term capital asset.

((~~(9)~~)) (10) "Real estate" means land and fixtures affixed to land. "Real estate" also includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land.

((~~(10)~~)) (11)(a) "Resident" means an individual:

(i) Who is domiciled in this state during the taxable year, unless the individual (A) maintained no permanent place of abode in this state during the entire taxable year, (B) maintained a permanent place of abode outside of this state during the entire taxable year, and (C) spent in the aggregate not more than 30 days of the taxable year in this state; or

(ii) Who is not domiciled in this state during the taxable year, but maintained a place of abode and was physically present in this state for more than 183 days during the taxable year.

(b) For purposes of this subsection, "day" means a calendar day or any portion of a calendar day.

(c) An individual who is a resident under (a) of this subsection is a resident for that portion of a taxable year in which the individual was domiciled in this state or maintained a place of abode in this state.

((~~(11)~~)) (12) "Section 1256 contract" has the same meaning as provided by Title 26 U.S.C. Sec. 1256 of the internal revenue code.

(13) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched. "Tangible personal property" does not include steam, electricity, or electrical energy.

(14) "Taxable year" means the taxpayer's taxable year as determined under the internal revenue code.

((~~(12)~~)) (15) "Taxpayer" means an individual subject to tax under this chapter.

((~~(13)~~)) (16) "Washington capital gains" means an individual's adjusted capital gain, as modified in RCW 82.87.060, for each return filed under this chapter.

Sec. 5. RCW 82.87.050 and 2021 c 196 s 6 are each amended to read as follows:

This chapter does not apply to the sale or exchange of:

(1) All real estate transferred by deed, real estate contract, judgment, or other lawful instruments that transfer title to real property and are filed as a public record with the counties where real property is located;

(2)(a) An interest in a privately held entity only to the extent that any long-term capital gain or loss from such sale or exchange is directly attributable to the real estate owned directly by such entity.

(b)(i) Except as provided in (b)(ii) and (iii) of this subsection, the value of the exemption under this subsection is equal to the fair market value of the real estate owned directly by the entity less its basis, at the time that the sale or exchange of the individual's interest occurs, multiplied by the percentage of the ownership interest in the entity which is sold or exchanged by the individual.

(ii) If a sale or exchange of an interest in an entity results in an amount directly attributable to real property and that is considered as an amount realized from the sale or exchange of property other than a capital asset under Title 26 U.S.C. Sec. 751 of the internal revenue code, such amount must not be considered in the calculation of an individual's exemption amount under (b)(i) of this subsection (2).

(iii) Real estate not owned directly by the entity in which an individual is selling or exchanging the individual's interest must not be considered in the calculation of an individual's exemption amount under (b)(i) of this subsection (2).

(c) Fair market value of real estate may be established by a fair market appraisal of the real estate or an allocation of assets by the seller and the buyer made under Title 26 U.S.C. Sec. 1060 of the internal revenue code, as amended. However, the department is not bound by the parties' agreement as to the allocation of assets, allocation of consideration, or fair market value, if such allocations or fair market value do not reflect the fair market value

of the real estate. The assessed value of the real estate for property tax purposes may be used to determine the fair market value of the real estate, if the assessed value is current as of the date of the sale or exchange of the ownership interest in the entity owning the real estate and the department determines that this method is reasonable under the circumstances.

(d) The value of the exemption under this subsection (2) may not exceed the individual's long-term capital gain or loss from the sale or exchange of an interest in an entity for which the individual is claiming this exemption;

(3) Assets held under a retirement savings account under Title 26 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered annuity or custodial account described in Title 26 U.S.C. Sec. 403(b) of the internal revenue code, a deferred compensation plan under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an individual retirement account or individual retirement annuity described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a Roth individual retirement account described in Title 26 U.S.C. Sec. 408A of the internal revenue code, an employee defined contribution program, an employee defined benefit plan, or a similar retirement savings vehicle, whether foreign or domestic, that penalizes withdrawals until the legal or beneficial owner reaches a certain age;

(4) Assets pursuant to, or under imminent threat of, condemnation proceedings by the United States, the state or any of its political subdivisions, or a municipal corporation;

(5) Cattle, horses, or breeding livestock if for the taxable year of the sale or exchange, more than 50 percent of the taxpayer's gross income for the taxable year, including from the sale or exchange of capital assets, is from farming or ranching;

(6) Property depreciable under Title 26 U.S.C. Sec. 167(a)(1) of the internal revenue code, or that qualifies for expensing under Title 26 U.S.C. Sec. 179 of the internal revenue code;

(7) Timber, timberland, or the receipt of Washington capital gains as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber and timberland. "Timber" means forest trees, standing or down, on privately or publicly owned land, and includes Christmas trees and short-rotation hardwoods. The sale or exchange of timber includes the cutting or disposal of timber qualifying for capital gains treatment

under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue code;

(8)(a) Commercial fishing privileges.

(b) For the purposes of this subsection (8), "commercial fishing privilege" means a right, held by a seafood harvester or processor, to participate in a limited access fishery. "Commercial fishing privilege" includes and is limited to:

(i) In the case of federally managed fisheries, quota and access to fisheries assigned pursuant to individual fishing quota programs, limited entry and catch share programs, cooperative fishing management agreements, or similar arrangements; and

(ii) In the case of state-managed fisheries, quota and access to fisheries assigned under fishery permits, limited entry and catch share programs, or similar arrangements; and

(9) Goodwill received from the sale of an auto dealership licensed under chapter 46.70 RCW whose activities are subject to chapter 46.96 RCW.

Sec. 6. RCW 82.87.070 and 2021 c 196 s 8 are each amended to read as follows:

(1) In computing tax under this chapter for a taxable year, a taxpayer may deduct from his or her Washington capital gains the amount of adjusted capital gain derived in the taxable year from the sale of substantially all of the fair market value of the assets of, or the transfer of substantially all of the taxpayer's interest in, a qualified family-owned small business, to the extent that such adjusted capital gain would otherwise be included in the taxpayer's Washington capital gains.

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

(a) "Assets" means real property and personal property, including tangible personal property and intangible property.

(b) "Family" means the same as "member of the family" in RCW 83.100.046.

(c)(i) "Materially participated" means an individual was involved in the operation of a business on a basis that is regular, continuous, and substantial.

(ii) The term "materially participated" must be interpreted consistently with the applicable treasury regulations for Title 26

U.S.C. Sec. 469 of the internal revenue code, to the extent that such interpretation does not conflict with any provision of this section.

(d) "Qualified family-owned small business" means a business:

(i) In which the taxpayer held a qualifying interest for at least five years immediately preceding the sale or transfer described in subsection (1) of this section. For the purposes of this subsection (2)(d)(i), the calculation of an individual's holding period for a qualifying interest is not reset in the event that a business either changes only its entity type or makes a nonmaterial change, or both;

(ii) In which either the taxpayer or members of the taxpayer's family, or both, materially participated in operating the business for at least five of the 10 years immediately preceding the sale or transfer described in subsection (1) of this section, unless such sale or transfer was to a qualified heir; and

(iii) That had worldwide gross revenue of $10,000,000 or less in the 12-month period immediately preceding the sale or transfer described in subsection (1) of this section. The worldwide gross revenue amount under this subsection (2)(d)(iii) shall be adjusted annually as provided in RCW 82.87.150.

(e) "Qualified heir" means a member of the taxpayer's family.

(f) "Qualifying interest" means:

(i) An interest as a proprietor in a business carried on as a sole proprietorship; or

(ii) An interest in a business if at least:

(A) Fifty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both;

(B) Thirty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both, and at least:

(I) Seventy percent of the business is owned, directly or indirectly, by members of two families; or

(II) Ninety percent of the business is owned, directly or indirectly, by members of three families.

(g) "Substantially all" means at least 90 percent.

Sec. 7. RCW 82.87.080 and 2021 c 196 s 9 are each amended to read as follows:

(1) In computing tax under this chapter for a taxable year, a taxpayer may deduct from ((~~his or her~~)) the person's Washington

capital gains the amount donated by the taxpayer to one or more qualified organizations during the same taxable year in excess of the minimum qualifying charitable donation amount. For the purposes of this section, the minimum qualifying charitable donation amount equals $250,000. The minimum qualifying charitable donation amount under this subsection (1) shall be adjusted pursuant to RCW 82.87.150.

(2) The deduction authorized under subsection (1) of this section may not exceed $100,000 for the taxable year. The maximum amount of the available deduction under this subsection (2) shall be adjusted pursuant to RCW 82.87.150.

(3) The deduction authorized under subsection (1) of this section may not be carried forward or backward to another tax reporting period.

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

(a) "Nonprofit organization" means an organization exempt from tax under Title 26 U.S.C. Sec. 501(c)(3) of the internal revenue code.

(b) "Principally directed and managed" means the place where a qualified organization's activities are primarily directed, controlled, and coordinated.

(c) "Qualified organization" means a nonprofit organization, or any other organization, that is:

(i) Eligible to receive a charitable ((~~deduction~~)) contribution as defined in Title 26 U.S.C. Sec. 170(c) of the internal revenue code; and

(ii) Principally directed ((~~or~~)) and managed within the state of Washington.

Sec. 8. RCW 82.87.100 and 2021 c 196 s 11 are each amended to read as follows:

(1) For purposes of the tax imposed under this chapter, long-term capital gains and losses are allocated to Washington as follows:

(a) Long-term capital gains or losses from the sale or exchange of tangible personal property are allocated to this state if the property was located in this state at the time of the sale or exchange. Long-term capital gains or losses from the sale or exchange of tangible personal property are also allocated to this state even

though the property was not located in this state at the time of the sale or exchange if:

(i) The property was located in the state at any time during the taxable year in which the sale or exchange occurred or the immediately preceding taxable year;

(ii) The taxpayer was a resident at the time the sale or exchange occurred; and

(iii) The taxpayer is not subject to the payment of an income or excise tax legally imposed on the long-term capital gains or losses by another taxing jurisdiction.

(b) Long-term capital gains or losses derived from intangible personal property are allocated to this state if the taxpayer was domiciled in this state at the time the sale or exchange occurred.

(2)(a) A credit is allowed against the tax imposed in RCW 82.87.040 ((~~equal to the amount of any~~)) for legally imposed income or excise tax paid by the taxpayer to another taxing jurisdiction on capital gains derived from capital assets within the other taxing jurisdiction to the extent such capital gains are included in the taxpayer's Washington capital gains. The amount of credit under this subsection ((~~may not exceed the~~)) is the lesser of: (i) The total amount of tax due under this chapter derived from such capital assets; or (ii) the total amount of tax paid to the other taxing jurisdiction on the capital gains derived from such capital assets. The credit under this subsection (2) is nonrefundable, and there is no carryback or carryforward of any unused credits.

(b) As used in this section, "taxing jurisdiction" means a state of the United States other than the state of Washington, 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.

Sec. 9. RCW 82.87.110 and 2021 c 196 s 12 are each amended to read as follows:

(1)(a) Except as otherwise provided in this section or RCW 82.32.080, taxpayers owing tax under this chapter must file, on forms prescribed by the department, a return with the department on or before the date the taxpayer's federal income tax return for the taxable year is required to be filed.

(b)(i) Except as provided in (b)(ii) of this subsection (1), returns and all supporting documents must be filed electronically

using the department's online tax filing service or other method of electronic reporting as the department may authorize.

(ii) The department may waive the electronic filing requirement in this subsection for good cause as provided in RCW 82.32.080.

(2) ((~~In addition to the Washington return required to be filed under subsection (1) of this section,~~)) (a) Every taxpayer((~~s~~)) owing tax under this chapter must ((~~file with the department on or before the date the federal return is required to be filed~~)) include with the Washington return described in subsection (1) of this section a copy of the taxpayer's federal income tax return ((~~along with all~~)) filed with the internal revenue service of the United States, including:

(i) All federal income tax forms, schedules ((~~and supporting documentation~~)), and other attachments that directly relate to the taxpayer's net long-term capital gain; and

(ii) Any information, returns, and federal tax documents received by the taxpayer that directly relate to the taxpayer's net long-term capital gain including, but not limited to, form 1099-B, schedule K-1 (form 1065), and schedule K-1 (form 1120-S).

(b) A taxpayer must provide to the department, upon request, other federal tax return information needed to verify the tax owed under this chapter.

(c) The department may prescribe by rule additional reporting or verification requirements under this subsection (2) to substantiate an individual's federal net long-term capital gain.

(3) Each taxpayer required to file a return under this section must, without assessment, notice, or demand, pay any tax due thereon to the department on or before the date fixed for the filing of the return, regardless of any filing extension. The tax must be paid by electronic funds transfer as defined in RCW 82.32.085 or by other forms of electronic payment as may be authorized by the department. The department may waive the electronic payment requirement for good cause as provided in RCW 82.32.080. If any tax due under this chapter is not paid by the due date, interest and penalties as provided in chapter 82.32 RCW apply to the deficiency.

(4)(a) In addition to the Washington return required to be filed under subsection (1) of this section, an individual claiming an exemption under RCW 82.87.050(2) must file documentation substantiating the following:

(i) The fair market value and basis of the real estate held directly by the entity in which the interest was sold or exchanged;

(ii) The percentage of the ownership interest sold or exchanged in the entity owning real estate; and

(iii) The methodology, if any, established by the entity in which the interest was sold or exchanged, for allocating gains or losses to the owners, partners, or shareholders of the entity from the sale of real estate.

(b) The department may by rule prescribe additional filing requirements to substantiate an individual's claim for an exemption under RCW 82.87.050(2). Prior to adopting any rule under this subsection (4)(b), the department must allow for an opportunity for participation by interested parties in the rule-making process in accordance with the administrative procedure act, chapter 34.05 RCW.

(5) If a taxpayer has obtained an extension of time for filing the federal income tax return for the taxable year and the taxpayer provides the department, on or before the date fixed for the filing of the return, regardless of any filing extension, evidence satisfactory to the department confirming the federal extension, the taxpayer is entitled to the same extension of time for filing the return required under this section ((~~if the taxpayer provides the department, before the due date provided in subsection (1) of this section, the extension confirmation number or other evidence satisfactory to the department confirming the federal extension~~)). An extension under this subsection for the filing of a return under this chapter is not an extension of time to pay the tax due under this chapter.

(6)(a) If any return due under subsection (1) of this section, along with a copy of the federal income tax return, is not filed with the department by the due date or any extension granted by the department, the department must assess a penalty in the amount of five percent of the tax due for the taxable year covered by the return for each month or portion of a month that the return remains unfiled. The total penalty assessed under this subsection may not exceed 25 percent of the tax due for the taxable year covered by the delinquent return. The penalty under this subsection is in addition to any penalties assessed for the late payment of any tax due on the return.

(b) The department must waive or cancel the penalty imposed under this subsection if:

(i) The department is persuaded that the taxpayer's failure to file the return by the due date was due to circumstances beyond the taxpayer's control; or

(ii) The taxpayer has not been delinquent in filing any return due under this section during the preceding five calendar years and the taxpayer has not been contacted by the department for enforcement purposes regarding the reporting period covered by the waiver request.

(7) The department must waive or cancel the penalty imposed under RCW 82.32.090(1) on a payment required under this section when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under RCW 82.32.105(1) if all the following apply:

(a) A taxpayer requests a waiver of penalty for a payment required under this section;

(b) The taxpayer has not been contacted by the department for enforcement purposes regarding the reporting period covered by the waiver request; and

(c) The taxpayer has timely remitted payment on all tax returns due under this section during the preceding five calendar years.

(8)(a) In the event a taxpayer's federal income tax return is changed in a manner that is final after their return required under subsection (1) of this section is filed with the department and the taypayer's federal income tax return is changed in a manner that impacts either the calculation of their Washington capital gains or their tax liability under this chapter, or both, the taxpayer must amend the taypayer's return due under subsection (1) of this section for the same tax year in which their federal income tax return is changed. For the purposes of this subsection (8), a federal income tax return is changed in a manner that is final when such change is not subject to either administrative review by the United States internal revenue service or judicial review in a court of competent jurisdiction, or both. A change is also final in the case of an audit finding in the following circumstances:

(i) The taxpayer has received audit findings from the internal revenue service for the tax period and the taxpayer does not timely file an administrative appeal with the internal revenue service.

(ii) The taxpayer consented to any of the audit findings for the tax period through a form or other written agreement with the United States internal revenue service.

(b) If the return is not amended, as required under this subsection (8), with the department within 90 days of the federal income tax return change becoming final, the department must assess on the 91st day a penalty in the amount of five percent of any additional tax due for the taxable year covered by the return for each month or portion of a month that the return is not timely amended as required by this subsection. The total penalty assessed under this subsection may not exceed 25 percent of the additional tax due for the taxable year covered by the delinquent return amendment. The penalty under this subsection (8)(b) is in addition to any penalties assessed under this section.

(9)(a) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the year in which a return is filed under subsection (1) of this section except:

(i) When the taxpayer's federal income tax return is changed in a manner that requires an amended return under subsection (8) of this section; or

(ii) As provided in RCW 82.32.050(4).

(b) In the event the statute of limitations is extended under (a)(i) of this subsection, no assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the year in which an amended return is filed with the department as required under subsection (8) of this section. Any assessment or correction of an assessment for additional taxes, penalties, or interest due under this subsection (9)(b) but made by the department more than four years after the year in which a return is filed under subsection (1) of this section must be directly related to the federal income tax return change described in subsection (8) of this section.

Sec. 10. RCW 82.87.120 and 2021 c 196 s 13 are each amended to read as follows:

(1) If the federal income tax liabilities of both spouses are determined on a joint federal return for the taxable year, they must file a joint return under this chapter.

(2) Except as otherwise provided in this subsection, if the federal income tax liability of any individual, including either spouse of a marital community, is determined on a separate federal return for the taxable year, they must file separate returns under

this chapter. State registered domestic partners may file a joint return under this chapter even if they filed separate federal returns for the taxable year.

(3) The liability for tax due under this chapter of each spouse or state registered domestic partner is joint and several, unless:

(a) The spouse is relieved of liability for federal tax purposes as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue code; or

(b) The department determines that the domestic partner qualifies for relief as provided by rule of the department. Such rule, to the extent possible without being inconsistent with this chapter, must follow Title 26 U.S.C. Sec. 6015.

(4)(a) Unless the context clearly indicates otherwise, individuals who are spouses or state registered domestic partners are not considered separate taxpayers for the purposes of this chapter regardless of whether they file a joint or separate return for the tax imposed under this chapter. The activities and assets of each spouse or state registered domestic partner are combined as if they were one individual for the purposes of determining the applicability of any threshold amounts, caps, deductions, credits, or any other amounts related to the activities or assets of an individual throughout this chapter.

(b)(i) Except as provided in (b)(ii) of this subsection (4), when an individual does not file a joint return for the tax imposed under this chapter, both spouses or state registered domestic partners must allocate between themselves their respective share of the marital community's or domestic partnership's assets and activity. The allocation must be reported to the department on any returns required to be filed pursuant to this chapter in a manner prescribed by the department.

(ii) If both spouses or state registered domestic partners cannot agree on an allocation of assets and activity as authorized under (b)(i) of this subsection (4), each spouse is limited to one-half of the total assets and activities of their marital community or domestic partnership.

Sec. 11. RCW 82.87.150 and 2021 c 196 s 17 are each amended to read as follows:

(1) Beginning ((~~December 2023~~)) October 2025 and each ((~~December~~)) October thereafter, the department must adjust the

applicable amounts by multiplying the current applicable amounts by one plus the percentage by which the most current consumer price index available on ((~~December~~)) October 1st of the current year exceeds the consumer price index for the prior 12-month period, and rounding the result to the nearest $1,000. If an adjustment under this subsection (1) would reduce the applicable amounts, the department must not adjust the applicable amounts for use in the following year. The department must publish the adjusted applicable amounts on its public website by ((~~December~~)) October 31st. ((~~The~~))

(a) Except as provided in (b) of this subsection, the adjusted applicable amounts calculated under this subsection (1) take effect for taxes due and distributions made, as the case may be, in the following calendar year.

(b) The adjusted applicable amounts calculated under this subsection (1) for the distribution amount described in subsection (2)(a)(i) of this section apply to distributions made in the following fiscal year.

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

(a) "Applicable amounts" means:

(i) The distribution amount to the education legacy trust account as provided in RCW 82.87.030(1)(a);

(ii) The standard deduction amount in RCW 82.87.020((~~(13)~~)) (16) and 82.87.060(1);

(iii) The worldwide gross revenue amount under RCW 82.87.070; and

(iv) The minimum qualifying charitable donation amount and maximum charitable donation amount under RCW 82.87.080.

(b) "Consumer price index" means the consumer price index for all urban consumers, all items, for the Seattle area as calculated by the United States bureau of labor statistics or its successor agency.

(c) "Seattle area" means the geographic area sample that includes Seattle and surrounding areas.

Sec. 12. RCW 82.32.050 and 2022 c 282 s 2 and 2022 c 41 s 2 are each reenacted and amended to read as follows:

(1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the

taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the additional amount shall become due and shall be paid within ((~~thirty~~)) 30 days from the date of the notice, or within such further time as the department may provide.

(a) For tax liabilities arising before January 1, 1992, interest shall be computed at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the earlier of December 31, 1998, or the date of payment. After December 31, 1998, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For tax liabilities arising after December 31, 1991, the rate of interest shall be variable and computed as provided in subsection (2) of this section from the last day of the year in which the deficiency is incurred until the date of payment. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(c)(i) Except as otherwise provided in this subsection (1)(c), interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice.

(ii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3) and 82.87.110, interest must be computed from the last day of April immediately following each such annual reporting period included in the notice, until the due date of the notice.

(iii) For purposes of computing interest under (c)(i) and (ii) of this subsection (1):

(A) The same computation of interest applies regardless of whether the department grants additional time for filing any return under RCW 82.32.080(4)(a)(i).

(B) If the department extends a due date under subsection (3) of this section or RCW 82.32.080(4)(b), and payment is not made in full by the extended due date, interest is computed from the last day of the month in which the extended due date occurs until the date of payment.

(iv) If payment in full is not made by the due date of the notice, additional interest shall be computed under this subsection (1)(c) until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average shall be calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year.

(3) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the due date of any assessment or correction of an assessment for additional taxes, penalties, or interest as the department deems proper.

(4) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

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

(a) "Due date of the notice" means the date indicated in the notice by which the amount due in the notice must be paid, or such later date as provided by RCW 1.12.070(3).

(b) "Return" means any document a person is required by the state of Washington to file 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" also means an application for refund under RCW 82.08.0206.

Sec. 13. RCW 82.32.060 and 2020 c 139 s 61 are each amended to read as follows:

(1) If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050 any amount of tax, penalty, or interest has been paid in excess of that properly due, the excess amount paid within, or attributable to, such period must be credited to the taxpayer's account or must be refunded to the taxpayer, at the taxpayer's option. Except as provided in subsection (2) of this section, no refund or credit may be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2)(a) The execution of a written waiver under RCW 82.32.050 or 82.32.100 will extend the time for making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the department discovers a refund or credit is due.

(b) A refund or credit must be allowed for an excess payment resulting from the failure to claim a bad debt deduction, credit, or refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, less than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(3) Any such refunds must be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 must have any refunds paid by electronic funds transfer if the department has the necessary account information to facilitate a refund by electronic funds transfer.

(4) Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer must be paid in the same manner, as provided in subsection

(3) of this section, upon the filing with the department of a certified copy of the order or judgment of the court.

(a) Interest at the rate of three percent per annum must be allowed by the department and by any court on the amount of any refund, credit, or other recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer before January 1, 1992. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For refunds or credits of amounts paid or other recovery allowed to a taxpayer after December 31, 1991, the rate of interest must be the rate as computed for assessments under RCW 82.32.050(2) less one percent. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(5) Interest allowed on a credit notice or refund issued after December 31, 2003, must be computed as follows:

(a) If all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund were made on or before the due date of the final return for each calendar year or the final reporting period included in the notice or refund:

(i) Interest must be computed from January 31st following each calendar year included in a notice or refund;

(ii) Interest must be computed from the last day of the month following the final month included in a notice or refund; or

(iii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3) and 82.87.110, interest must be computed from the last day of April following each such annual reporting period included in a notice or refund.

(b) If the taxpayer has not made all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund on or before the dates specified by RCW 82.32.045 for the final return for each calendar year or the final month included in the notice or refund, interest must be

computed from the last day of the month following the date on which payment in full of the liabilities was made for each calendar year included in a notice or refund, and the last day of the month following the date on which payment in full of the liabilities was made if the final month included in a notice or refund is not the end of a calendar year.

(c) Interest included in a credit notice must accrue up to the date the taxpayer could reasonably be expected to use the credit notice, as defined by the department's rules. If a credit notice is converted to a refund, interest must be recomputed to the date the refund is issued, but not to exceed the amount of interest that would have been allowed with the credit notice.

Sec. 14. 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~~)) 19 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~~)) 29 percent of the amount of the tax under this subsection. No penalty so added may be less than ((~~five dollars~~)) $5.

(2) If the department of revenue determines that any tax 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, there is assessed a total penalty of ((~~fifteen~~)) 15 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~~)) 30th day following the due date specified in the notice of tax due, or any extension thereof, there is assessed a total penalty of ((~~twenty-five~~)) 25 percent of the amount of the tax under this subsection. No penalty so added may be less than ((~~five dollars~~)) $5. As used in this section, "substantially underpaid" means that the taxpayer has

paid less than ((~~eighty~~)) 80 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~~)) $1,000.

(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~~)) 10 percent of the amount of the tax, but not less than ((~~ten dollars~~)) $10.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person 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 for the period that the person was not registered as required by RCW 82.32.030. The department may not impose the penalty under this subsection (4) if a person 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~~)) 10 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~~)) 45 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~~)) 35 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~~)) 50 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) If a taxpayer substantially underpays an estimated payment of tax imposed under RCW 82.87.040 pursuant to RCW 82.87.110(3), there is assessed a penalty of five percent of the amount of the actual tax due for tax imposed under RCW 82.87.040. As used in this section, "substantially underpaid" means that an individual's estimated payment for taxes imposed under RCW 82.87.040 was less than 80 percent of the actual tax due, and at least $1,000.

(11) For the purposes of this section, "return" means any document a person is required by the state of Washington to file 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" also includes the submission of any estimated payment of tax as provided in RCW 82.87.110(3) and the confirmation of an extension of the filing due date required under RCW 82.87.110(5).

NEW SECTION. **Sec. 15.** A new section is added to chapter 82.87 RCW to read as follows:

(1) Except as otherwise provided in this section, brokers and barter exchanges must provide all copies of United States internal revenue service form 1099-B, or any successor form if so renamed, electronically to the department for sales or exchanges of long-term capital assets for which:

(a) The long-term capital gain from such sales or exchanges is allocated to this state under RCW 82.87.100(1); and

(b) The broker or barter exchange is the payor.

(2) Copies of the form under subsection (1) of this section must be provided to the department no later than 90 days of filing the form with the internal revenue service and in a manner prescribed by the department.

(3) Brokers and barter exchanges that fail to comply with the requirement under subsection (1) of this section, or willfully file a false or fraudulent copy of United States internal revenue service form 1099-B, are subject to a penalty of $50 for each such failure or each such filing.

(4) A rebuttable presumption exists that the long-term capital gains from a sale or exchange is allocated to this state under any one of the following circumstances:

(a) The payee's last known place of domicile to the payor is located in this state;

(b) The payee's address on file with the broker or barter exchange is located in this state;

(c) The payee's address on their United States internal revenue service form 1099-B, or any successor form if so renamed, is located in this state;

(d) The payee's account with the broker or barter exchange was opened in this state; or

(e) The payee makes use of a broker or barter exchanges' physical place of business in this state.

(5) For the purposes of this section, the following definitions apply unless the context clearly indicates otherwise.

(a) "Broker" and "barter exchange" have the same meaning as provided by Title 26 U.S.C. Sec. 6045 of the internal revenue code.

(b) "Long-term capital asset" has the same meaning as provided under RCW 82.87.020.

(c) "Payee" means the person for which a broker or barter exchange files a United States internal revenue service form 1099-B.

(d) "Payor" means a broker or barter exchange that files a United States internal revenue service form 1099-B for a payee.

(e) "Resident" has the same meaning as provided under RCW 82.87.020.

NEW SECTION. **Sec. 16.** Sections 3, 4, 8, 10, and 15 of this act take effect January 1, 2026.

NEW SECTION. **Sec. 17.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void."

Correct the title.

EFFECT: A null and void clause is added, making the bill null and void unless funded in the budget.

--- END ---