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**SUBSTITUTE SENATE BILL 5314**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Stanford, Harris, and Nobles; by request of Department of Revenue)

READ FIRST TIME 02/20/25.

1        AN ACT Relating to modifying the capital gains tax under chapter  
2 82.87 RCW and related statutes by closing loopholes, replacing the  
3 business and occupation tax credit with a capital gains tax credit,  
4 clarifying ambiguities and making technical corrections in a manner  
5 that is not estimated to affect state or local tax collections,  
6 modifying the credit for taxes paid in other jurisdictions, treating  
7 spouses and domestic partners more consistently, modifying and adding  
8 definitions, creating a late payment penalty waiver, modifying the  
9 publication schedule for inflation adjustments, modifying the  
10 distributions of moneys to the following fiscal year instead of  
11 calendar year, adding a nonclaim period, and adding a new requirement  
12 for brokers and barter exchanges; amending RCW 82.04.4497, 82.87.020,  
13 82.87.050, 82.87.070, 82.87.080, 82.87.100, 82.87.110, 82.87.120,  
14 82.87.150, 82.32.060, and 82.32.090; reenacting and amending RCW  
15 82.32.050; adding new sections to chapter 82.87 RCW; creating a new  
16 section; providing an effective date; and providing an expiration  
17 date.

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

19        **Sec. 1.** RCW 82.04.4497 and 2021 c 196 s 16 are each amended to  
20 read as follows:

1 (1) To avoid taxing the same sale or exchange under both the  
2 business and occupation tax and capital gains tax, a credit is  
3 allowed against taxes due under this chapter on a sale or exchange  
4 that is also subject to the tax imposed under RCW 82.87.040. The  
5 credit is equal to the amount of tax imposed under this chapter on  
6 such sale or exchange.

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

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

17 (4) (~~The department must apply the credit first to taxes~~  
18 ~~deposited into the general fund.~~) If (~~any remaining~~) the credit  
19 reduces the amount of taxes deposited into the workforce education  
20 investment account established in RCW 43.79.195, the department must  
21 (~~notify the state treasurer of such amounts monthly, and the state~~  
22 ~~treasurer must~~) transfer (~~those~~) an equal amount(~~s~~) from the  
23 general fund to the workforce education investment account.

24 (5) This section expires January 1, 2026.

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

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

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

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

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

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

36 (c) Any proceeding instituted under RCW 82.04.4497.

37 (2) For purposes of this section, "liability for tax" means that  
38 the obligation for payment of a tax has been incurred by a taxpayer,

1 regardless of when the tax is payable or whether the amount of tax  
2 due has been established.

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

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

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

20 (3)(a) By the last working day in March, June, September, and  
21 December of each fiscal year, the state treasurer must transfer from  
22 the general fund to the education legacy trust account created in RCW  
23 83.100.230 and the common school construction fund, as applicable, an  
24 amount equal to the reduction in capital gains taxes due to this  
25 section, as determined by the department under (b) of this subsection  
26 (3). Moneys transferred from the general fund pursuant to this  
27 subsection (3)(a) must be distributed as provided in RCW 82.87.030 as  
28 if they were taxes collected under this chapter.

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

34 (ii) If the department determines, at any time, that a previous  
35 transfer amount determined under this subsection (3)(b) was  
36 overstated or understated for any reason, including an error in  
37 calculation by the department or a reporting error by the taxpayer,  
38 the department must adjust its calculation of the current amount to

1 be transferred by an amount necessary to offset the previous  
2 overstatement or understatement.

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

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

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

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

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

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

26 (b) Plus any amount of long-term capital loss from a sale or  
27 exchange that is not allocated to Washington under RCW 82.87.100, to  
28 the extent such loss was included in calculating federal net long-  
29 term capital gain;

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

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

38 (e) Plus any amount of long-term capital loss carryover that is  
39 carried forward from a sale or exchange that occurred before January

1 1, 2022, to the extent such loss was included in calculating federal  
2 net long-term capital gain;

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

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

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

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

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

25 (4) "Individual" means a natural person.

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

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

32 ~~((6))~~ (7) "Long-term capital asset" means a capital asset that  
33 is held for more than one year.

34 ~~((7))~~ (8) "Long-term capital gain" means gain from the sale or  
35 exchange of a long-term capital asset.

36 ~~((8))~~ (9) "Long-term capital loss" means a loss from the sale  
37 or exchange of a long-term capital asset.

38 ~~((9))~~ (10) "Real estate" means land and fixtures affixed to  
39 land. "Real estate" also includes used mobile homes, used park model

1 trailers, used floating homes, and improvements constructed upon  
2 leased land.

3 ~~((10))~~ (11)(a) "Resident" means an individual:

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

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

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

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

19 ~~((11))~~ (12) "Section 1256 contract" has the same meaning as  
20 provided by Title 26 U.S.C. Sec. 1256 of the internal revenue code.

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

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

26 ~~((12))~~ (15) "Taxpayer" means an individual subject to tax under  
27 this chapter.

28 ~~((13))~~ (16) "Washington capital gains" means an individual's  
29 adjusted capital gain, as modified in RCW 82.87.060, for each return  
30 filed under this chapter.

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

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

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

38 (2) (a) An interest in a privately held entity only to the extent  
39 that any long-term capital gain or loss from such sale or exchange is

1 directly attributable to the real estate owned directly by such  
2 entity.

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

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

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

21 (c) Fair market value of real estate may be established by a fair  
22 market appraisal of the real estate or an allocation of assets by the  
23 seller and the buyer made under Title 26 U.S.C. Sec. 1060 of the  
24 internal revenue code, as amended. However, the department is not  
25 bound by the parties' agreement as to the allocation of assets,  
26 allocation of consideration, or fair market value, if such  
27 allocations or fair market value do not reflect the fair market value  
28 of the real estate. The assessed value of the real estate for  
29 property tax purposes may be used to determine the fair market value  
30 of the real estate, if the assessed value is current as of the date  
31 of the sale or exchange of the ownership interest in the entity  
32 owning the real estate and the department determines that this method  
33 is reasonable under the circumstances.

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

38 (3) Assets held under a retirement savings account under Title 26  
39 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered  
40 annuity or custodial account described in Title 26 U.S.C. Sec. 403(b)

1 of the internal revenue code, a deferred compensation plan under  
2 Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an  
3 individual retirement account or individual retirement annuity  
4 described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a  
5 Roth individual retirement account described in Title 26 U.S.C. Sec.  
6 408A of the internal revenue code, an employee defined contribution  
7 program, an employee defined benefit plan, or a similar retirement  
8 savings vehicle, whether foreign or domestic, that penalizes  
9 withdrawals until the legal or beneficial owner reaches a certain  
10 age;

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

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

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

21 (7) Timber, timberland, or the receipt of Washington capital  
22 gains as dividends and distributions from real estate investment  
23 trusts derived from gains from the sale or exchange of timber and  
24 timberland. "Timber" means forest trees, standing or down, on  
25 privately or publicly owned land, and includes Christmas trees and  
26 short-rotation hardwoods. The sale or exchange of timber includes the  
27 cutting or disposal of timber qualifying for capital gains treatment  
28 under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue  
29 code;

30 (8)(a) Commercial fishing privileges.

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

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



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

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

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

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

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

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

21 (b) "Family" means the same as "member of the family" in RCW  
22 83.100.046.

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

26 (ii) The term "materially participated" must be interpreted  
27 consistently with the applicable treasury regulations for Title 26  
28 U.S.C. Sec. 469 of the internal revenue code, to the extent that such  
29 interpretation does not conflict with any provision of this section.

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

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

37 (ii) In which either the taxpayer or members of the taxpayer's  
38 family, or both, materially participated in operating the business  
39 for at least five of the 10 years immediately preceding the sale or

1 transfer described in subsection (1) of this section, unless such  
2 sale or transfer was to a qualified heir; and

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

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

9 (f) "Qualifying interest" means:

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

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

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

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

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

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

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

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

26 (1) In computing tax under this chapter for a taxable year, a  
27 taxpayer may deduct from (~~his or her~~) the person's Washington  
28 capital gains the amount donated by the taxpayer to one or more  
29 qualified organizations during the same taxable year in excess of the  
30 minimum qualifying charitable donation amount. For the purposes of  
31 this section, the minimum qualifying charitable donation amount  
32 equals \$250,000. The minimum qualifying charitable donation amount  
33 under this subsection (1) shall be adjusted pursuant to RCW  
34 82.87.150.

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

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

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

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

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

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

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

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

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

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

23 (a) Long-term capital gains or losses from the sale or exchange  
24 of tangible personal property are allocated to this state if the  
25 property was located in this state at the time of the sale or  
26 exchange. Long-term capital gains or losses from the sale or exchange  
27 of tangible personal property are also allocated to this state even  
28 though the property was not located in this state at the time of the  
29 sale or exchange if:

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

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

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

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

4 (2)(a) A credit is allowed against the tax imposed in RCW  
5 82.87.040 (~~equal to the amount of any~~) for legally imposed income  
6 or excise tax paid by the taxpayer to another taxing jurisdiction on  
7 capital gains derived from capital assets within the other taxing  
8 jurisdiction to the extent such capital gains are included in the  
9 taxpayer's Washington capital gains. The amount of credit under this  
10 subsection (~~may not exceed the~~) is the lesser of: (i) The total  
11 amount of tax due under this chapter derived from such capital  
12 assets; or (ii) the total amount of tax paid to the other taxing  
13 jurisdiction on the capital gains derived from such capital assets.  
14 The credit under this subsection (2) is nonrefundable, and there is  
15 no carryback or carryforward of any unused credits.

16 (b) As used in this section, "taxing jurisdiction" means a state  
17 of the United States other than the state of Washington, the District  
18 of Columbia, the Commonwealth of Puerto Rico, any territory or  
19 possession of the United States, or any foreign country or political  
20 subdivision of a foreign country.

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

23 (1)(a) Except as otherwise provided in this section or RCW  
24 82.32.080, taxpayers owing tax under this chapter must file, on forms  
25 prescribed by the department, a return with the department on or  
26 before the date the taxpayer's federal income tax return for the  
27 taxable year is required to be filed.

28 (b)(i) Except as provided in (b)(ii) of this subsection (1),  
29 returns and all supporting documents must be filed electronically  
30 using the department's online tax filing service or other method of  
31 electronic reporting as the department may authorize.

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

34 (2) (~~In addition to the Washington return required to be filed~~  
35 ~~under subsection (1) of this section,~~) (a) Every taxpayer((s)) owing  
36 tax under this chapter must ((file with the department on or before  
37 the date the federal return is required to be filed)) include with  
38 the Washington return described in subsection (1) of this section a  
39 copy of the taxpayer's federal income tax return ((along with all))

1 filed with the internal revenue service of the United States,  
2 including:

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

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

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

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

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

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

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

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

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

38 (b) The department may by rule prescribe additional filing  
39 requirements to substantiate an individual's claim for an exemption  
40 under RCW 82.87.050(2). Prior to adopting any rule under this

1 subsection (4)(b), the department must allow for an opportunity for  
2 participation by interested parties in the rule-making process in  
3 accordance with the administrative procedure act, chapter 34.05 RCW.

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

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

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

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

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

38 (7) The department must waive or cancel the penalty imposed under  
39 RCW 82.32.090(1) on a payment required under this section when the  
40 circumstances under which the delinquency occurred do not qualify for

1 waiver or cancellation under RCW 82.32.105(1) if all the following  
2 apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) Except as otherwise provided in this subsection, if the  
26 federal income tax liability of any individual, including either  
27 spouse of a marital community, is determined on a separate federal  
28 return for the taxable year, they must file separate returns under  
29 this chapter. State registered domestic partners may file a joint  
30 return under this chapter even if they filed separate federal returns  
31 for the taxable year.

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

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

37 (b) The department determines that the domestic partner qualifies  
38 for relief as provided by rule of the department. Such rule, to the



1 extent possible without being inconsistent with this chapter, must  
2 follow Title 26 U.S.C. Sec. 6015.

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

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

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

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

28 (1) Beginning ~~((December—2023))~~ October 2025 and each  
29 ~~((December))~~ October thereafter, the department must adjust the  
30 applicable amounts by multiplying the current applicable amounts by  
31 one plus the percentage by which the most current consumer price  
32 index available on ~~((December))~~ October 1st of the current year  
33 exceeds the consumer price index for the prior 12-month period, and  
34 rounding the result to the nearest \$1,000. If an adjustment under  
35 this subsection (1) would reduce the applicable amounts, the  
36 department must not adjust the applicable amounts for use in the  
37 following year. The department must publish the adjusted applicable  
38 amounts on its public website by ~~((December))~~ October 31st. ~~((The))~~

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

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

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

11 (a) "Applicable amounts" means:

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

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

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

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

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

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

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

26 (1) If upon examination of any returns or from other information  
27 obtained by the department it appears that a tax or penalty has been  
28 paid less than that properly due, the department shall assess against  
29 the taxpayer such additional amount found to be due and shall add  
30 thereto interest on the tax only. The department shall notify the  
31 taxpayer by mail, or electronically as provided in RCW 82.32.135, of  
32 the additional amount and the additional amount shall become due and  
33 shall be paid within (~~(thirty)~~) 30 days from the date of the notice,  
34 or within such further time as the department may provide.

35 (a) For tax liabilities arising before January 1, 1992, interest  
36 shall be computed at the rate of nine percent per annum from the last  
37 day of the year in which the deficiency is incurred until the earlier  
38 of December 31, 1998, or the date of payment. After December 31,  
39 1998, the rate of interest shall be variable and computed as provided

1 in subsection (2) of this section. The rate so computed shall be  
2 adjusted on the first day of January of each year for use in  
3 computing interest for that calendar year.

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

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

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

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

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

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

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

37 (2) For the purposes of this section, the rate of interest to be  
38 charged to the taxpayer shall be an average of the federal short-term  
39 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.  
40 The rate set for each new year shall be computed by taking an

1 arithmetical average to the nearest percentage point of the federal  
2 short-term rate, compounded annually. That average shall be  
3 calculated using the rates from four months: January, April, and July  
4 of the calendar year immediately preceding the new year, and October  
5 of the previous preceding year.

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

11 (4) No assessment or correction of an assessment for additional  
12 taxes, penalties, or interest due may be made by the department more  
13 than four years after the close of the tax year, except (a) against a  
14 taxpayer who has not registered as required by this chapter, (b) upon  
15 a showing of fraud or of misrepresentation of a material fact by the  
16 taxpayer, or (c) where a taxpayer has executed a written waiver of  
17 such limitation. The execution of a written waiver shall also extend  
18 the period for making a refund or credit as provided in RCW  
19 82.32.060(2).

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

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

25 (b) "Return" means any document a person is required by the state  
26 of Washington to file to satisfy or establish a tax or fee obligation  
27 that is administered or collected by the department and that has a  
28 statutorily defined due date. "Return" also means an application for  
29 refund under RCW 82.08.0206.

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

32 (1) If, upon receipt of an application by a taxpayer for a refund  
33 or for an audit of the taxpayer's records, or upon an examination of  
34 the returns or records of any taxpayer, it is determined by the  
35 department that within the statutory period for assessment of taxes,  
36 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,  
37 penalty, or interest has been paid in excess of that properly due,  
38 the excess amount paid within, or attributable to, such period must  
39 be credited to the taxpayer's account or must be refunded to the

1 taxpayer, at the taxpayer's option. Except as provided in subsection  
2 (2) of this section, no refund or credit may be made for taxes,  
3 penalties, or interest paid more than four years prior to the  
4 beginning of the calendar year in which the refund application is  
5 made or examination of records is completed.

6 (2)(a) The execution of a written waiver under RCW 82.32.050 or  
7 82.32.100 will extend the time for making a refund or credit of any  
8 taxes paid during, or attributable to, the years covered by the  
9 waiver if, prior to the expiration of the waiver period, an  
10 application for refund of such taxes is made by the taxpayer or the  
11 department discovers a refund or credit is due.

12 (b) A refund or credit must be allowed for an excess payment  
13 resulting from the failure to claim a bad debt deduction, credit, or  
14 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or  
15 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec.  
16 166, as amended or renumbered as of January 1, 2003, less than four  
17 years prior to the beginning of the calendar year in which the refund  
18 application is made or examination of records is completed.

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

26 (4) Any judgment for which a recovery is granted by any court of  
27 competent jurisdiction, not appealed from, for tax, penalties, and  
28 interest which were paid by the taxpayer, and costs, in a suit by any  
29 taxpayer must be paid in the same manner, as provided in subsection  
30 (3) of this section, upon the filing with the department of a  
31 certified copy of the order or judgment of the court.

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

1 (b) For refunds or credits of amounts paid or other recovery  
2 allowed to a taxpayer after December 31, 1991, the rate of interest  
3 must be the rate as computed for assessments under RCW 82.32.050(2)  
4 less one percent. This rate of interest applies for all interest  
5 allowed through December 31, 1998. Interest allowed after December  
6 31, 1998, must be computed at the rate as computed under RCW  
7 82.32.050(2). The rate so computed must be adjusted on the first day  
8 of January of each year for use in computing interest for that  
9 calendar year.

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

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

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

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

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

25 (b) If the taxpayer has not made all overpayments for each  
26 calendar year and all reporting periods ending with the final month  
27 included in a notice or refund on or before the dates specified by  
28 RCW 82.32.045 for the final return for each calendar year or the  
29 final month included in the notice or refund, interest must be  
30 computed from the last day of the month following the date on which  
31 payment in full of the liabilities was made for each calendar year  
32 included in a notice or refund, and the last day of the month  
33 following the date on which payment in full of the liabilities was  
34 made if the final month included in a notice or refund is not the end  
35 of a calendar year.

36 (c) Interest included in a credit notice must accrue up to the  
37 date the taxpayer could reasonably be expected to use the credit  
38 notice, as defined by the department's rules. If a credit notice is  
39 converted to a refund, interest must be recomputed to the date the

1 refund is issued, but not to exceed the amount of interest that would  
2 have been allowed with the credit notice.

3 **Sec. 14.** RCW 82.32.090 and 2015 3rd sp.s. c 5 s 401 are each  
4 amended to read as follows:

5 (1) If payment of any tax due on a return to be filed by a  
6 taxpayer is not received by the department of revenue by the due  
7 date, there is assessed a penalty of nine percent of the amount of  
8 the tax; and if the tax is not received on or before the last day of  
9 the month following the due date, there is assessed a total penalty  
10 of (~~nineteen~~) 19 percent of the amount of the tax under this  
11 subsection; and if the tax is not received on or before the last day  
12 of the second month following the due date, there is assessed a total  
13 penalty of (~~twenty-nine~~) 29 percent of the amount of the tax under  
14 this subsection. No penalty so added may be less than (~~five~~  
15 ~~dollars~~) \$5.

16 (2) If the department of revenue determines that any tax has been  
17 substantially underpaid, there is assessed a penalty of five percent  
18 of the amount of the tax determined by the department to be due. If  
19 payment of any tax determined by the department to be due is not  
20 received by the department by the due date specified in the notice,  
21 or any extension thereof, there is assessed a total penalty of  
22 (~~fifteen~~) 15 percent of the amount of the tax under this  
23 subsection; and if payment of any tax determined by the department to  
24 be due is not received on or before the (~~thirtieth~~) 30th day  
25 following the due date specified in the notice of tax due, or any  
26 extension thereof, there is assessed a total penalty of (~~twenty-~~  
27 ~~five~~) 25 percent of the amount of the tax under this subsection. No  
28 penalty so added may be less than (~~five-dollars~~) \$5. As used in  
29 this section, "substantially underpaid" means that the taxpayer has  
30 paid less than (~~eighty~~) 80 percent of the amount of tax determined  
31 by the department to be due for all of the types of taxes included  
32 in, and for the entire period of time covered by, the department's  
33 examination, and the amount of underpayment is at least (~~one~~  
34 ~~thousand-dollars~~) \$1,000.

35 (3) If a warrant is issued by the department of revenue for the  
36 collection of taxes, increases, and penalties, there is added thereto  
37 a penalty of (~~ten~~) 10 percent of the amount of the tax, but not  
38 less than (~~ten-dollars~~) \$10.

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

13 (5) If the department finds that a taxpayer has disregarded  
14 specific written instructions as to reporting or tax liabilities, or  
15 willfully disregarded the requirement to file returns or remit  
16 payment electronically, as provided by RCW 82.32.080, the department  
17 must add a penalty of (~~ten~~) 10 percent of the amount of the tax  
18 that should have been reported and/or paid electronically or the  
19 additional tax found due if there is a deficiency because of the  
20 failure to follow the instructions. A taxpayer disregards specific  
21 written instructions when the department has informed the taxpayer in  
22 writing of the taxpayer's tax obligations and the taxpayer fails to  
23 act in accordance with those instructions unless, in the case of a  
24 deficiency, the department has not issued final instructions because  
25 the matter is under appeal pursuant to this chapter or departmental  
26 regulations. The department may not assess the penalty under this  
27 section upon any taxpayer who has made a good faith effort to comply  
28 with the specific written instructions provided by the department to  
29 that taxpayer. A taxpayer will be considered to have made a good  
30 faith effort to comply with specific written instructions to file  
31 returns and/or remit taxes electronically only if the taxpayer can  
32 show good cause, as defined in RCW 82.32.080, for the failure to  
33 comply with such instructions. A taxpayer will be considered to have  
34 willfully disregarded the requirement to file returns or remit  
35 payment electronically if the department has mailed or otherwise  
36 delivered the specific written instructions to the taxpayer on at  
37 least two occasions. Specific written instructions may be given as a  
38 part of a tax assessment, audit, determination, closing agreement, or  
39 other written communication, provided that such specific written  
40 instructions apply only to the taxpayer addressed or referenced on



1 such communication. Any specific written instructions by the  
2 department must be clearly identified as such and must inform the  
3 taxpayer that failure to follow the instructions may subject the  
4 taxpayer to the penalties imposed by this subsection. If the  
5 department determines that it is necessary to provide specific  
6 written instructions to a taxpayer that does not comply with the  
7 requirement to file returns or remit payment electronically as  
8 provided in RCW 82.32.080, the specific written instructions must  
9 provide the taxpayer with a minimum of (~~forty-five~~) 45 days to come  
10 into compliance with its electronic filing and/or payment obligations  
11 before the department may impose the penalty authorized in this  
12 subsection.

13 (6) If the department finds that all or any part of a deficiency  
14 resulted from engaging in a disregarded transaction, as described in  
15 RCW 82.32.655(3), the department must assess a penalty of (~~thirty-~~  
16 ~~five~~) 35 percent of the additional tax found to be due as a result  
17 of engaging in a transaction disregarded by the department under RCW  
18 82.32.655(2). The penalty provided in this subsection may be assessed  
19 together with any other applicable penalties provided in this section  
20 on the same tax found to be due, except for the evasion penalty  
21 provided in subsection (7) of this section. The department may not  
22 assess the penalty under this subsection if, before the department  
23 discovers the taxpayer's use of a transaction described under RCW  
24 82.32.655(3), the taxpayer discloses its participation in the  
25 transaction to the department.

26 (7) If the department finds that all or any part of the  
27 deficiency resulted from an intent to evade the tax payable  
28 hereunder, a further penalty of (~~fifty~~) 50 percent of the  
29 additional tax found to be due must be added.

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

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

38 (10) If a taxpayer substantially underpays an estimated payment  
39 of tax imposed under RCW 82.87.040 pursuant to RCW 82.87.110(3),  
40 there is assessed a penalty of five percent of the amount of the

1 actual tax due for tax imposed under RCW 82.87.040. As used in this  
2 section, "substantially underpaid" means that an individual's  
3 estimated payment for taxes imposed under RCW 82.87.040 was less than  
4 80 percent of the actual tax due, and at least \$1,000.

5 (11) For the purposes of this section, "return" means any  
6 document a person is required by the state of Washington to file to  
7 satisfy or establish a tax or fee obligation that is administered or  
8 collected by the department, and that has a statutorily defined due  
9 date. "Return" also includes the submission of any estimated payment  
10 of tax as provided in RCW 82.87.110(3) and the confirmation of an  
11 extension of the filing due date required under RCW 82.87.110(5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (e) "Resident" has the same meaning as provided under RCW  
19 82.87.020.

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

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