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**SUBSTITUTE SENATE BILL 5967**

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**State of Washington****53rd Legislature****1993 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senator Rinehart; by request of Governor Lowry)

Read first time 04/01/93.

1 AN ACT Relating to taxation; amending RCW 82.04.050, 82.04.190,  
2 82.04.4282, 82.04.460, 82.04.060, 82.08.020, 82.12.020, 82.04.480,  
3 82.08.090, 82.12.0252, 82.12.0255, 82.12.0259, 82.12.035, 82.12.060,  
4 82.08.100, 82.14.020, 82.60.050, 82.61.010, 82.61.040, 82.61.070,  
5 82.62.040, 82.32.030, 70.95E.020, 82.45.010, 82.45.030, 82.45.032,  
6 82.45.060, 82.45.090, 82.45.100, 82.45.150, 82.45.180, 43.84.092,  
7 83.100.010, 83.100.020, 83.100.030, 83.100.040, 83.100.045, 83.100.050,  
8 83.100.070, 83.100.080, 83.100.090, 83.100.130, 83.100.150, 82.03.190,  
9 48.32A.090, 82.04.470, 82.08.050, and 67.40.090; reenacting and  
10 amending RCW 82.12.010; adding new sections to chapter 82.08 RCW;  
11 adding a new section to chapter 82.12 RCW; adding new sections to  
12 chapter 82.32 RCW; adding new sections to chapter 82.04 RCW; adding a  
13 new section to chapter 82.45 RCW; adding new sections to chapter 83.100  
14 RCW; adding new sections to chapter 48.14 RCW; creating new sections;  
15 repealing RCW 82.04.300, 82.45A.010, 82.45A.020, 82.45A.030, 82.45.120,  
16 83.100.160, 83.100.170, 83.100.180, 83.100.190, 48.32.050, and  
17 82.04.417; repealing 1991 sp.s. c 22 s 1 (uncodified); prescribing  
18 penalties; providing effective dates; and declaring an emergency.

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

1 PART I

2 RETAIL SALES TAXATION OF BUSINESS SERVICES

3 Sec. 101. RCW 82.04.050 and 1988 c 253 s 1 are each amended to  
4 read as follows:

5 (1) "Sale at retail" or "retail sale" means every sale of tangible  
6 personal property (including articles produced, fabricated, or  
7 imprinted) to all persons irrespective of the nature of their business  
8 and including, among others, without limiting the scope hereof, persons  
9 who install, repair, clean, alter, improve, construct, or decorate real  
10 or personal property of or for consumers other than a sale to a person  
11 who presents a resale certificate as defined in RCW 82.04.470 and who:

12 (a) Purchases for the purpose of resale as tangible personal  
13 property in the regular course of business without intervening use by  
14 such person((~~7~~))i or

15 (b) Installs, repairs, cleans, alters, imprints, improves,  
16 constructs, or decorates real or personal property of or for consumers,  
17 if such tangible personal property becomes an ingredient or component  
18 of such real or personal property without intervening use by such  
19 person((~~7~~))i or

20 (c) Purchases for the purpose of consuming the property purchased  
21 in producing for sale a new article of tangible personal property or  
22 substance, of which such property becomes an ingredient or component or  
23 is a chemical used in processing, when the primary purpose of such  
24 chemical is to create a chemical reaction directly through contact with  
25 an ingredient of a new article being produced for sale((~~7~~))i or

26 (d) Purchases for the purpose of consuming the property purchased  
27 in producing ferrosilicon which is subsequently used in producing  
28 magnesium for sale, if the primary purpose of such property is to  
29 create a chemical reaction directly through contact with an ingredient  
30 of ferrosilicon((~~7~~))i or

31 (e) Purchases for the purpose of providing the property to  
32 consumers as part of competitive telephone service, as defined in RCW  
33 82.04.065. The term shall include every sale of tangible personal  
34 property which is used or consumed or to be used or consumed in the  
35 performance of any activity classified as a "sale at retail" or "retail  
36 sale" even though such property is resold or utilized as provided in  
37 (a), (b), (c), (d), or (e) above following such use. The term also  
38 means every sale of tangible personal property to persons engaged in

1 any business which is taxable under RCW 82.04.280, subsections (2) and  
2 (7) and RCW 82.04.290.

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

6 (a) The installing, repairing, cleaning, altering, imprinting, or  
7 improving of tangible personal property of or for consumers, including  
8 charges made for the mere use of facilities in respect thereto, but  
9 ~~((excluding charges made for the use of coin operated laundry~~  
10 ~~facilities when such facilities are situated in an apartment house,~~  
11 ~~hotel, motel, rooming house, trailer camp or tourist camp for the~~  
12 ~~exclusive use of the tenants thereof, and also excluding sales of~~  
13 ~~laundry service to members by nonprofit associations composed~~  
14 ~~exclusively of nonprofit hospitals, and))~~ excluding services rendered  
15 in respect to live animals, birds and insects;

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

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

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

1 The term "janitorial services" does not include painting, papering,  
2 repairing, furnace or septic tank cleaning, snow removal or  
3 sandblasting;

4 (e) The sale of or charge made for labor and services rendered in  
5 respect to automobile towing and similar automotive transportation  
6 services, but not in respect to those required to report and pay taxes  
7 under chapter 82.16 RCW;

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

15 (g) The sale of or charge made for tangible personal property,  
16 labor and services to persons taxable under (a), (b), (c), (d), (e),  
17 and (f) above when such sales or charges are for property, labor and  
18 services which are used or consumed in whole or in part by such persons  
19 in the performance of any activity defined as a "sale at retail" or  
20 "retail sale" even though such property, labor and services may be  
21 resold after such use or consumption. Nothing contained in this  
22 paragraph shall be construed to modify the first paragraph of this  
23 section and nothing contained in the first paragraph of this section  
24 shall be construed to modify this paragraph.

25 (3) The term "sale at retail" or "retail sale" shall include the  
26 sale of or charge made for personal business or professional services  
27 ~~((including))~~ designated in this subsection as "retail services."  
28 Retail services include amounts designated as interest, rents, fees,  
29 admission, and other service emoluments however designated, received by  
30 persons engaging in the following business activities, unless purchased  
31 or licensed for the purpose of resale in the regular course of  
32 business. The following shall be designated as retail services:

33 ~~((Amusement and recreation businesses including but not limited~~  
34 ~~to golf, pool, billiards, skating, bowling, ski lifts and tows and~~  
35 ~~others;~~

36 ~~((b))~~ Abstract, title insurance and escrow ((businesses)) services;

37 ~~((c))~~ (b) Credit bureau ((businesses)) services;

38 ~~((d) automobile parking and storage garage businesses.~~

39 ~~((4))~~ (c) Collection agencies or services;

- 1       (d) Stenographic, secretarial, and clerical services;
- 2       (e) Computer services, including but not limited to computer  
3 programming, software modification, software installation, software  
4 and/or hardware maintenance, and/or repair and software update  
5 services;
- 6       (f) Data processing services, including but not limited to word  
7 processing, data entry, data retrieval, data search, information  
8 compilation, payroll and business accounting, data production, and  
9 other computerized data and information storage or manipulation. Data  
10 processing services also includes the use of a computer or computer  
11 time for data processing whether the processing is performed by the  
12 provider of the computer or by the purchaser or other beneficiary of  
13 the service;
- 14       (g) Information services, including but not limited to electronic  
15 data retrieval or research that entails furnishing financial or legal  
16 information, data or research, general or specialized news, or current  
17 information unless furnished to a newspaper or to a radio or television  
18 station licensed by the federal communications commission;
- 19       (h) Legal services, arbitration and mediation services, including  
20 but not limited to paralegal services, legal research services and  
21 court reporting services, but not including charges for indigent  
22 criminal defense or legal services for which no charge is made;
- 23       (i) Accounting, auditing, bookkeeping, tax preparation, and similar  
24 services;
- 25       (j) Engineering, including but not limited to industrial, civil,  
26 electrical, mechanical, petroleum, marine, nuclear, and design  
27 engineering, as well as machine tool designing;
- 28       (k) Architectural services, including but not limited to structural  
29 or landscape design or architecture;
- 30       (l) Business consulting services, including but not limited to  
31 administrative management, business management, construction  
32 management, motel management, office management, human resource  
33 consulting, management engineering consulting, management information  
34 systems consulting, manufacturing management consulting, marketing  
35 consulting, operations research consulting, personnel management  
36 consulting, physical distribution consultants, site location  
37 consultants, and lobbying;
- 38       (m) Protective services, including but not limited to detective  
39 agency services and private investigating services, armored car

1 services, guard or protective services, lie detection or polygraph  
2 services, and security system, burglar, or fire alarm monitoring and  
3 maintenance services;

4 (n) Public relations or advertising services, including but not  
5 limited to layout, art direction, graphic design, copy writing,  
6 mechanical preparation or production supervision, but not including any  
7 amounts paid for actual broadcast or print advertising;

8 (o) The rental of heavy equipment with an operator;

9 (p) Boat, railroad, and air services such as sightseeing excursions  
10 and tours;

11 (q) Surveying;

12 (r) Miscellaneous consulting services, including but not limited to  
13 geological consulting, entomological consulting, and commercial testing  
14 services;

15 (s) Financial management or consulting services, but not including  
16 charges for trading in shares or consulting services performed for a  
17 collective investment fund such as: (i) A mutual fund or other  
18 regulated investment company as defined in section 851(a) of the  
19 Internal Revenue Code of 1986, as amended; (ii) an "investment company"  
20 as that term is used in section 3(a) of the Investment Company Act of  
21 1940 as well as an entity that would be an investment company under  
22 section 3(a) of the Investment Company Act of 1940 except for the  
23 section 3(c)(1) or (11) exemptions, or except that it is a foreign  
24 investment company organized under laws of a foreign country; (iii) an  
25 "employee benefit plan," which includes any plan, trust, commingled  
26 employee benefit trusts, or custodial arrangement that is subject to  
27 the Employee Retirement Income Security Act of 1974, as amended, 29  
28 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401,  
29 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal  
30 Revenue Code of 1986, as amended, or similar plan maintained by state  
31 or local governments, or plans, trusts, or custodial arrangements  
32 established to self-insure benefits required by federal, state, or  
33 local law; (iv) a fund maintained by a nonprofit organization as  
34 defined in section 501(c)(3) of the Internal Revenue Code of 1986, as  
35 amended, for operating, quasi-endowment, or endowment purposes; or (v)  
36 funds that are established for the benefit of such nonprofit  
37 organization such as charitable remainder trusts, charitable lead  
38 trusts, charitable annuity trusts, or other similar trusts; and

1       (t) Residential or commercial landscape maintenance and  
2 horticultural services.

3       (4) The term "retail services" does not include:

4       (a) The provision of either permanent or temporary employees;

5       (b) Charges made between affiliated corporations for the sharing of  
6 overhead expenses. "Affiliated corporations" means an affiliated  
7 group of corporations as defined in section 1504(a) of the Internal  
8 Revenue Code of 1986, as amended, whose members are includable under  
9 section 1504(b), (c), or (d), and are eligible to file a consolidated  
10 tax return for federal corporate income tax purposes, and includes  
11 foreign affiliates that would otherwise be disqualified under section  
12 1504(b)(4). "Overhead expenses" means costs for items such as taxes,  
13 rents, insurance, and similar items, but does not include the provision  
14 of actual services to an affiliate;

15       (c) Services provided by an employee to an employer while acting in  
16 the capacity of an employee;

17       (d) Services donated to a public benefit nonprofit organization, as  
18 defined in RCW 82.04.366;

19       (e) Services donated to the state of Washington, its political  
20 subdivisions, municipal corporations, or quasi-municipal corporations;

21       (f) Services provided by a public benefit nonprofit organization,  
22 as defined in RCW 82.04.366, to the state of Washington, its political  
23 subdivisions, municipal corporations, or quasi-municipal corporations;

24       (g) Nonenterprise services provided by the state of Washington, its  
25 political subdivisions, municipal corporations, or quasi-municipal  
26 corporations, to the state of Washington, its political subdivisions,  
27 municipal corporations, or quasi-municipal corporations;

28       (h) Services related to the cleanup of hazardous wastes from sites  
29 designated as hazardous waste sites under federal or state law, whether  
30 on land or water.

31       (5) The term "sale at retail" or "retail sale" shall include the  
32 sale of or charge made for the following consumer services:

33       (a) Amusement and recreation services, including but not limited to  
34 golf, pool, billiards, skating, bowling, ski lifts and tows, admissions  
35 to sporting events and theatrical and cultural productions, carnival  
36 and amusement park rides, and others;

37       (b) Automobile parking and storage garage businesses;

38       (c) Funeral services; and

1        (d) Miscellaneous personal services, including but not limited to  
2 beauty and barber services, tanning salons, massage services, turkish  
3 baths, escort and dating services, and health clubs or spa services,  
4 but not including day-care services or babysitting services.

5        (6) The term shall also include the renting or leasing of tangible  
6 personal property to consumers.

7        ~~((+5))~~ (7) The term shall also include the providing of telephone  
8 service, as defined in RCW 82.04.065, to consumers.

9        ~~((+6))~~ (8) The term shall not include the sale of or charge made  
10 for labor and services rendered in respect to the building, repairing,  
11 or improving of any street, place, road, highway, easement, right of  
12 way, mass public transportation terminal or parking facility, bridge,  
13 tunnel, or trestle which is owned by a municipal corporation or  
14 political subdivision of the state or by the United States and which is  
15 used or to be used primarily for foot or vehicular traffic including  
16 mass transportation vehicles of any kind. The term shall also not  
17 include sales of feed, seed, seedlings, fertilizer, and spray materials  
18 to persons who participate in the federal conservation reserve program  
19 or its successor administered by the United States department of  
20 agriculture, or to persons for the purpose of producing for sale any  
21 agricultural product whatsoever, including plantation Christmas trees  
22 and milk, eggs, wool, fur, meat, honey, or other substances obtained  
23 from animals, birds, or insects but only when such production and  
24 subsequent sale are exempt from tax under RCW 82.04.330, nor shall it  
25 include sales of chemical sprays or washes to persons for the purpose  
26 of post-harvest treatment of fruit for the prevention of scald, fungus,  
27 mold, or decay.

28        ~~((+7))~~ (9) The term shall not include the sale of or charge made  
29 for labor and services rendered in respect to the constructing,  
30 repairing, decorating, or improving of new or existing buildings or  
31 other structures under, upon, or above real property of or for the  
32 United States, any instrumentality thereof, or a county or city housing  
33 authority created pursuant to chapter 35.82 RCW, including the  
34 installing, or attaching of any article of tangible personal property  
35 therein or thereto, whether or not such personal property becomes a  
36 part of the realty by virtue of installation. Nor shall the term  
37 include the sale of services or charges made for the clearing of land  
38 and the moving of earth of or for the United States, any  
39 instrumentality thereof, or a county or city housing authority.

1       **Sec. 102.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to  
2 read as follows:

3       "Consumer" means the following:

4       (1) Any person who purchases, acquires, owns, holds, or uses any  
5 article of tangible personal property irrespective of the nature of the  
6 person's business and including, among others, without limiting the  
7 scope hereof, persons who install, repair, clean, alter, improve,  
8 construct, or decorate real or personal property of or for consumers  
9 other than for the purpose (a) of resale as tangible personal property  
10 in the regular course of business or (b) of incorporating such property  
11 as an ingredient or component of real or personal property when  
12 installing, repairing, cleaning, altering, imprinting, improving,  
13 constructing, or decorating such real or personal property of or for  
14 consumers or (c) of consuming such property in producing for sale a new  
15 article of tangible personal property or a new substance, of which such  
16 property becomes an ingredient or component or as a chemical used in  
17 processing, when the primary purpose of such chemical is to create a  
18 chemical reaction directly through contact with an ingredient of a new  
19 article being produced for sale or (d) purchases for the purpose of  
20 consuming the property purchased in producing ferrosilicon which is  
21 subsequently used in producing magnesium for sale, if the primary  
22 purpose of such property is to create a chemical reaction directly  
23 through contact with an ingredient of ferrosilicon;

24       (2) Any person who purchases, acquires, uses, or receives the  
25 benefit of any service included within the definition of retail sale in  
26 RCW 82.04.050, unless the person can demonstrate with regularly kept  
27 books and records, or by other methods approved by rules of the  
28 department, that the service was purchased or licensed for resale in  
29 the regular course of business without intervening use by the person;

30       (3) Any person engaged in any business activity taxable under RCW  
31 82.04.290 and any person who purchases, acquires, or uses any telephone  
32 service as defined in RCW 82.04.065, other than for resale in the  
33 regular course of business;

34       ~~((+3))~~ (4) Any person engaged in the business of contracting for  
35 the building, repairing or improving of any street, place, road,  
36 highway, easement, right of way, mass public transportation terminal or  
37 parking facility, bridge, tunnel, or trestle which is owned by a  
38 municipal corporation or political subdivision of the state of  
39 Washington or by the United States and which is used or to be used

1 primarily for foot or vehicular traffic including mass transportation  
2 vehicles of any kind as defined in RCW 82.04.280, in respect to  
3 tangible personal property or retail services, when such person  
4 incorporates such property as an ingredient or component of such  
5 publicly owned street, place, road, highway, easement, right of way,  
6 mass public transportation terminal or parking facility, bridge,  
7 tunnel, or trestle by installing, placing or spreading the property in  
8 or upon the right of way of such street, place, road, highway,  
9 easement, bridge, tunnel, or trestle or in or upon the site of such  
10 mass public transportation terminal or parking facility;

11 ~~((+4))~~ (5) Any person who is an owner, lessee or has the right of  
12 possession to or an easement in real property which is being  
13 constructed, repaired, decorated, improved, or otherwise altered by a  
14 person engaged in business, excluding only (a) municipal corporations  
15 or political subdivisions of the state in respect to labor and services  
16 rendered to their real property which is used or held for public road  
17 purposes, and (b) the United States, instrumentalities thereof, and  
18 county and city housing authorities created pursuant to chapter 35.82  
19 RCW in respect to labor and services rendered to their real property.  
20 Nothing contained in this or any other subsection of this definition  
21 shall be construed to modify any other definition of "consumer";

22 ~~((+5))~~ (6) Any person who is an owner, lessee, or has the right of  
23 possession to personal property which is being constructed, repaired,  
24 improved, cleaned, imprinted, or otherwise altered by a person engaged  
25 in business;

26 ~~((+6))~~ (7) Any person engaged in the business of constructing,  
27 repairing, decorating, or improving new or existing buildings or other  
28 structures under, upon, or above real property of or for the United  
29 States, any instrumentality thereof, or a county or city housing  
30 authority created pursuant to chapter 35.82 RCW, including the  
31 installing or attaching of any article of tangible personal property  
32 therein or thereto, whether or not such personal property becomes a  
33 part of the realty by virtue of installation; also, any person engaged  
34 in the business of clearing land and moving earth of or for the United  
35 States, any instrumentality thereof, or a county or city housing  
36 authority created pursuant to chapter 35.82 RCW. Any such person shall  
37 be a consumer within the meaning of this subsection in respect to the  
38 receipt of the benefit of any retail service or to tangible personal

1 property incorporated into, installed in, or attached to such building  
2 or other structure by such person.

3 **Sec. 103.** RCW 82.04.4282 and 1989 c 392 s 1 are each amended to  
4 read as follows:

5 In computing tax there may be deducted from the measure of tax  
6 amounts derived from (1) bona fide initiation fees, (2) dues, (3)  
7 contributions, (4) donations, (5) tuition fees, (6) charges made by a  
8 nonprofit trade or professional organization for attending or occupying  
9 space at a trade show, convention, or educational seminar sponsored by  
10 the nonprofit trade or professional organization, which trade show,  
11 convention, or educational seminar is not open to the general public,  
12 (7) charges made for operation of privately operated kindergartens, and  
13 (8) endowment funds. This paragraph shall not be construed to exempt  
14 any person, association, or society from tax liability upon selling  
15 tangible personal property or services defined as retail sale or upon  
16 providing facilities or services for which a special charge is made to  
17 members or others. If dues are in exchange for any significant amount  
18 of goods or services rendered by the recipient thereof to members  
19 without any additional charge to the member, or if the dues are  
20 graduated upon the amount of goods or services rendered, the value of  
21 such goods or services shall not be considered as a deduction  
22 hereunder.

23 **Sec. 104.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to  
24 read as follows:

25 (1)(a) Any person rendering services taxable under RCW 82.04.290  
26 and maintaining places of business both within and without this state  
27 which contribute to the rendition of such services shall, for the  
28 purpose of computing tax liability under RCW 82.04.290, apportion to  
29 this state that portion of his gross income which is derived from  
30 services rendered within this state. Where such apportionment cannot  
31 be accurately made by separate accounting methods, the taxpayer shall  
32 apportion to this state that proportion of his total income which the  
33 cost of doing business within the state bears to the total cost of  
34 doing business both within and without the state.

35 ~~((+2))~~ (b) Notwithstanding the provision of subsection (1)(a) of  
36 this section, persons doing business both within and without the state  
37 who receive gross income from service charges, as defined in RCW

1 63.14.010 (relating to amounts charged for granting the right or  
2 privilege to make deferred or installment payments) or who receive  
3 gross income from engaging in business as financial institutions within  
4 the scope of chapter 82.14A RCW (relating to city taxes on financial  
5 institutions) shall apportion or allocate gross income taxable under  
6 RCW 82.04.290 to this state pursuant to rules promulgated by the  
7 department consistent with uniform rules for apportionment or  
8 allocation developed by the states.

9 ~~((+3))~~ (c) The department shall by rule provide a method or  
10 methods of apportioning or allocating gross income derived from sales  
11 of telephone services taxed under this chapter, if the gross proceeds  
12 of sales subject to tax under this chapter do not fairly represent the  
13 extent of the taxpayer's income attributable to this state. The rules  
14 shall be, so far as feasible, consistent with the methods of  
15 apportionment contained in this section and shall require the  
16 consideration of those facts, circumstances, and apportionment factors  
17 as will result in an equitable and constitutionally permissible  
18 division of the services.

19 (2) For purposes of determining the business and occupation tax  
20 liability of the seller of a retail service, the sale of a service is  
21 made in this state when the benefit of the retail service is received  
22 in this state. For purposes of determining where the benefit is  
23 received, the following presumptions shall apply:

24 (a) If the service directly relates to real property, the benefit  
25 of the service shall be presumed to be received where the real property  
26 is located; or

27 (b) If the service directly relates to tangible personal property,  
28 the benefit of the service shall be presumed to be received where the  
29 property is listed on the tax rolls or has otherwise acquired a situs;  
30 or

31 (c) If the service involves enhancing a buyer's ability to maintain  
32 or establish a local market, the benefit of the service shall be  
33 presumed to be received where the buyer's local market exists; or

34 (d) If the provisions of (a), (b), or (c) of this subsection are  
35 not applicable, the benefit of the service shall be presumed to be  
36 received in the state where the buyer resides or where the buyer is  
37 exclusively doing business; or

38 (e) If (a), (b), (c), or (d) of this subsection are not applicable,  
39 and the seller of the service is doing business both inside and outside

1 of this state, the service shall be presumed to be received in this  
2 state to the extent that the seller is doing business in this state.  
3 For purposes of determining the extent of the seller's business in this  
4 state, the following apportionment formula shall be used:

5 (i) The gross income of the seller shall be apportioned by an  
6 apportionment fraction composed of a sales factor representing fifty  
7 percent of the fraction, a property factor representing twenty-five  
8 percent of the fraction, and a payroll factor representing twenty-five  
9 percent of the fraction. If the denominator for any one of the factors  
10 is zero or is insignificant, the weighted percentage for the other  
11 denominators shall be increased proportionately; if the denominator for  
12 any two of the factors are zero or are insignificant, the weighted  
13 percentage for the other denominator shall be one hundred percent;

14 (ii) The property factor is a fraction the numerator of which is  
15 the average value of the seller's real and tangible personal property  
16 owned or rented and used in this state during the taxable year or  
17 period and the denominator of which is the average value of such  
18 property owned or rented and used everywhere;

19 (A) Real and tangible personal property owned by the seller shall  
20 be valued at original cost. Real and tangible personal property rented  
21 by the taxpayer shall be valued at eight times the net annual rental  
22 rate paid by the taxpayer less any annual rental rate received from  
23 subrentals;

24 (B) The average value of real and tangible personal property shall  
25 be determined by averaging the value at the beginning and the end of  
26 the taxable year or period, unless the department determines that an  
27 averaging of monthly values during the taxable year or period is  
28 reasonably required to properly reflect the average value of the  
29 taxpayer's real and tangible personal property;

30 (iii) The payroll factor is a fraction the numerator of which is  
31 the total amount paid in this state during the taxable year or period  
32 by the taxpayer for compensation and the denominator of which is the  
33 total compensation paid everywhere during the taxable year or period;

34 (A) As used in this subsection, the term "compensation" means  
35 wages, salaries, commissions, and any other form of remuneration paid  
36 to employees for personal services;

37 (B) Compensation is paid in this state if:

38 (I) The employee's service is performed entirely within this state;

39 or

1        (II) The employee's service is performed both within and without  
2 the state, but the service performed without the state is incidental to  
3 the employee's service within the state; or

4        (III) Some of the employee's service is performed in the state and  
5 the base of operations or the place from which the service is directed  
6 or controlled is within this state, or the base of operations or the  
7 place from which the service is directed or controlled is not in any  
8 state in which some part of the service is performed and the employee's  
9 residence is in any state;

10        (iv) The sales factor is a fraction the numerator of which is the  
11 total sales of the taxpayer in this state during the taxable year or  
12 period and the denominator of which is the total sales of the taxpayer  
13 everywhere during the taxable year or period.

14        **Sec. 105.** RCW 82.04.060 and 1983 2nd ex.s. c 3 s 26 are each  
15 amended to read as follows:

16        "Sale at wholesale" or "wholesale sale" means any sale of tangible  
17 personal property(~~(, or any sale of telephone service as defined in RCW~~  
18 ~~82.04.065, which)) that is not a sale at retail and means any sale of~~  
19 ~~or charge made for labor and services, including services defined as~~  
20 ~~retail sales, rendered for persons who are not consumers, ((in respect~~  
21 ~~to real or personal property,)) if such sale or charge is expressly~~  
22 ~~defined as a retail sale by RCW 82.04.050 when rendered to or for~~  
23 ~~consumers((: PROVIDED, That)). The term ("real or personal property"~~  
24 ~~as used in this section)) "sale at wholesale" or "wholesale sale" shall~~  
25 ~~not include any sale of or charge made for services in respect to any~~  
26 ~~natural products named in RCW 82.04.100.~~

27        **Sec. 106.** RCW 82.08.020 and 1992 c 194 s 9 are each amended to  
28 read as follows:

29        (1) There is levied and there shall be collected a tax on each  
30 retail sale in this state equal to six (~~and five-tenths~~) percent of  
31 the selling price.

32        (2) There is levied and there shall be collected an additional tax  
33 on each retail car rental, regardless of whether the vehicle is  
34 licensed in this state, equal to five and nine-tenths percent of the  
35 selling price. Ninety-one percent of the revenue collected under this  
36 subsection shall be deposited and distributed in the same manner as  
37 motor vehicle excise tax revenue collected under RCW 82.44.020(1).

1 Nine percent of the revenue collected under this subsection shall be  
2 deposited in the transportation fund and distributed in the same manner  
3 as motor vehicle excise tax revenue collected under RCW 82.44.020(2).

4 (3) The taxes imposed under this chapter shall apply to successive  
5 retail sales of the same property.

6 (4) The rates provided in this section apply to taxes imposed under  
7 chapter 82.12 RCW as provided in RCW 82.12.020.

8 NEW SECTION. **Sec. 107.** A new section is added to chapter 82.08  
9 RCW to read as follows:

10 (1) A seller of a retail service shall collect the retail sales tax  
11 on the sale of a retail service if the sale is made in this state. The  
12 sale is made in this state for purposes of this chapter:

13 (a) If the service directly relates to real property, the benefit  
14 of the service shall be presumed to be received where the real property  
15 is located; or

16 (b) If the service directly relates to tangible personal property,  
17 the benefit of the service shall be presumed to be received where the  
18 property is listed on the tax rolls or has otherwise acquired a situs;  
19 or

20 (c) If the service involves enhancing a buyer's ability to maintain  
21 or establish a local market, the benefit of the service shall be  
22 presumed to be received where the buyer's local market exists; or

23 (d) If the provisions of (a), (b), or (c) of this subsection are  
24 not applicable, the benefit of the service shall be presumed to be  
25 received in the state where the buyer resides or is exclusively doing  
26 business.

27 (2) When none of the provisions of subsection (1) of this section  
28 apply, and the buyer is doing business both inside and outside of this  
29 state, the buyer may elect to pay deferred sales tax on the portion of  
30 the retail service that will be taxable in Washington under the formula  
31 provided by section 110 of this act. If the buyer makes this election,  
32 it must provide the seller with a certificate stating that it has made  
33 this election. The department shall adopt rules providing the form and  
34 information required to be on the certificates.

35 (3) Notwithstanding the provisions of subsection (1) or (2) of this  
36 section, if the buyer can demonstrate to the satisfaction of the  
37 department that the benefit of the service was received outside of this

1 state, the service shall be deemed to have been received outside of  
2 this state.

3 (4) If a transaction involves both the sale of a retail service  
4 taxable under this chapter and the provision of a service not taxable  
5 under this chapter, the charges shall be separately identified and  
6 stated with respect to the taxable and nontaxable portions of the  
7 transaction. Failure to separately state the charges shall create a  
8 presumption that the entire transaction is subject to the retail sales  
9 tax.

10 **Sec. 108.** RCW 82.12.010 and 1985 c 222 s 1 and 1985 c 132 s 1 are  
11 each reenacted and amended to read as follows:

12 For the purposes of this chapter:

13 (1) "Value of the article used" shall mean the consideration,  
14 whether money, credit, rights, or other property except trade-in  
15 property of like kind, expressed in terms of money, paid or given or  
16 contracted to be paid or given by the purchaser to the seller for the  
17 article of tangible personal property, the use of which is taxable  
18 under this chapter. The term includes, in addition to the  
19 consideration paid or given or contracted to be paid or given, the  
20 amount of any tariff or duty paid with respect to the importation of  
21 the article used. In case the article used is acquired by lease or by  
22 gift or is extracted, produced, or manufactured by the person using the  
23 same or is sold under conditions wherein the purchase price does not  
24 represent the true value thereof, the value of the article used shall  
25 be determined as nearly as possible according to the retail selling  
26 price at place of use of similar products of like quality and character  
27 under such rules and regulations as the department of revenue may  
28 prescribe.

29 In case the articles used are acquired by bailment, the value of  
30 the use of the articles so used shall be in an amount representing a  
31 reasonable rental for the use of the articles so bailed, determined as  
32 nearly as possible according to the value of such use at the places of  
33 use of similar products of like quality and character under such rules  
34 and regulations as the department of revenue may prescribe: PROVIDED,  
35 That in case any such articles of tangible personal property are used  
36 in respect to the construction, repairing, decorating, or improving of,  
37 and which become or are to become an ingredient or component of, new or  
38 existing buildings or other structures under, upon, or above real

1 property of or for the United States, any instrumentality thereof, or  
2 a county or city housing authority created pursuant to chapter 35.82  
3 RCW, including the installing or attaching of any such articles therein  
4 or thereto, whether or not such personal property becomes a part of the  
5 realty by virtue of installation, then the value of the use of such  
6 articles so used shall be determined according to the retail selling  
7 price of such articles, or in the absence of such a selling price, as  
8 nearly as possible according to the retail selling price at place of  
9 use of similar products of like quality and character or, in the  
10 absence of either of these selling price measures, such value may be  
11 determined upon a cost basis, in any event under such rules and  
12 regulations as the department of revenue may prescribe.

13 In the case of articles owned by a user engaged in business outside  
14 the state which are brought into the state for no more than ninety days  
15 in any period of three hundred sixty-five consecutive days and which  
16 are temporarily used for business purposes by the person in this state,  
17 the value of the article used shall be an amount representing a  
18 reasonable rental for the use of the articles, unless the person has  
19 paid tax under this chapter or chapter 82.08 RCW upon the full value of  
20 the article used, as defined in the first paragraph of this subsection.

21 In the case of articles manufactured or produced by the user and  
22 used in the manufacture or production of products sold or to be sold to  
23 the department of defense of the United States, the value of the  
24 articles used shall be determined according to the value of the  
25 ingredients of such articles.

26 In the case of an article manufactured or produced for purposes of  
27 serving as a prototype for the development of a new or improved  
28 product, the value of the article used shall be determined by: (a) The  
29 retail selling price of such new or improved product when first offered  
30 for sale; or (b) the value of materials incorporated into the prototype  
31 in cases in which the new or improved product is not offered for sale.

32 (2) "Value of the retail service used" shall mean the  
33 consideration, whether money, credit, rights, or other property,  
34 expressed in terms of money, paid or given or contracted to be paid or  
35 given by the purchaser to the seller for the retail service, the use of  
36 which is taxable under this chapter. If the retail service is received  
37 by gift or under conditions wherein the purchase price does not  
38 represent the true value of the retail service, the value of the retail  
39 services used shall be determined as nearly as possible according to

1 the retail selling price at the place of use of similar services under  
2 rules prescribed by the department of revenue;

3 (3) "Use," "used," "using," or "put to use" shall have their  
4 ordinary meaning, and shall mean:

5 (a) With respect to tangible personal property, the first act  
6 within this state by which the taxpayer takes or assumes dominion or  
7 control over the article of tangible personal property (as a consumer),  
8 and include installation, storage, withdrawal from storage, or any  
9 other act preparatory to subsequent actual use or consumption within  
10 this state; and

11 (b) With respect to a service defined as a retail sale, the receipt  
12 in this state by the taxpayer of any part of the benefit afforded by  
13 the retail service as defined in RCW 82.04.050;

14 ~~((+3))~~ (4) "Taxpayer" and "purchaser" include all persons included  
15 within the meaning of the word "buyer" and the word "consumer" as  
16 defined in chapters 82.04 and 82.08 RCW;

17 ~~((+4))~~ (5) "Retailer" means every seller as defined in RCW  
18 82.08.010 and every person engaged in the business of selling tangible  
19 personal property at retail and every person required to collect from  
20 purchasers the tax imposed under this chapter;

21 ~~((+5))~~ (6) The meaning ascribed to words and phrases in chapters  
22 82.04 and 82.08 RCW, insofar as applicable, shall have full force and  
23 effect with respect to taxes imposed under the provisions of this  
24 chapter. "Consumer," in addition to the meaning ascribed to it in  
25 chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any  
26 person who distributes or displays, or causes to be distributed or  
27 displayed, any article of tangible personal property, except  
28 newspapers, the primary purpose of which is to promote the sale of  
29 products or services.

30 **Sec. 109.** RCW 82.12.020 and 1983 c 7 s 7 are each amended to read  
31 as follows:

32 (1) There is hereby levied and there shall be collected from every  
33 person in this state a tax or excise for the privilege of receiving the  
34 benefit of any service defined as a retail sale or of using within this  
35 state as a consumer any article of tangible personal property purchased  
36 at retail, or acquired by lease, gift, repossession, or bailment, or  
37 extracted or produced or manufactured by the person so using the same,  
38 or otherwise furnished to a person engaged in any business taxable

1 under RCW 82.04.280, subsections (2) or (7). (~~This tax will not apply~~  
2 ~~with respect to the use of any article of tangible personal property~~  
3 ~~purchased, extracted, produced or manufactured outside this state until~~  
4 ~~the transportation of such article has finally ended or until such~~  
5 ~~article has become commingled with the general mass of property in this~~  
6 ~~state.~~)

7 (2) This tax shall apply to the receipt of any service defined as  
8 a retail sale or the use of every article of tangible personal  
9 property, including property acquired at a casual or isolated sale, and  
10 including byproducts used by the manufacturer thereof, except as  
11 hereinafter provided, irrespective of whether the article or similar  
12 articles are manufactured or are available for purchase within this  
13 state.

14 (3) Except as provided in RCW 82.12.0252, payment by one purchaser  
15 or user of tangible personal property or service defined as a retail  
16 sale of the tax imposed by chapter 82.08 or 82.12 RCW shall not have  
17 the effect of exempting any other purchaser or user of the same  
18 property or service defined as a retail sale from the taxes imposed by  
19 such chapters.

20 (4) The tax shall be levied and collected in an amount equal to the  
21 value of the article or service used by the taxpayer multiplied by the  
22 rate in effect for the retail sales tax under RCW 82.08.020(~~(, as now~~  
23 ~~or hereafter amended, in the county in which the article is used)~~).

24 NEW SECTION. Sec. 110. A new section is added to chapter 82.12  
25 RCW to read as follows:

26 The receipt of any part of the benefit of a retail service in this  
27 state occurs:

28 (1) If the retail service directly relates to real property, the  
29 benefit of the retail service shall be presumed to be received in this  
30 state when the real property is located in this state; or

31 (2) If the retail service directly relates to tangible personal  
32 property, the benefit of the retail service shall be presumed to be  
33 received in this state when the tangible personal property is listed on  
34 the property tax rolls or has otherwise acquired a situs in this state;  
35 or

36 (3) If the retail service directly involves sales to a buyer's  
37 local market, the benefit of the retail service shall be presumed to be

1 received in this state when the buyer's local market is in this state;  
2 or

3 (4) If the provisions of subsection (1), (2), or (3) of this  
4 section are not applicable, the benefit of the retail service shall be  
5 presumed to be received in the state where the buyer resides or is  
6 exclusively doing business; or

7 (5) If subsection (1), (2), (3), or (4) of this section are not  
8 applicable, and the buyer of the retail service is doing business both  
9 inside and outside of this state, the retail service shall be presumed  
10 to be received in this state to the extent that the buyer is doing  
11 business in this state. The amount of the retail service that is  
12 taxable in this state shall be determined by multiplying the price of  
13 the retail service by a percentage that represents the extent of the  
14 buyer's business in this state. For purposes of determining the extent  
15 of the buyer's business in this state, the following apportionment  
16 formula shall be used:

17 (a) The value of the retail service shall be apportioned by an  
18 apportionment fraction composed of a sales factor representing fifty  
19 percent of the fraction, a property factor representing twenty-five  
20 percent of the fraction, and a payroll factor representing twenty-five  
21 percent of the fraction. If the denominator for any one of the factors  
22 is zero or are insignificant, the weighted percentage for the other  
23 denominators shall be increased proportionately; if the denominator for  
24 any two of the factors are zero or are insignificant, the weighted  
25 percentage for the other denominator shall be one hundred percent;

26 (b) The property factor is a fraction the numerator of which is the  
27 average value of the buyer's real and tangible personal property owned  
28 or rented and used in this state during the taxable year or period and  
29 the denominator of which is the average value of such property owned or  
30 rented and used everywhere;

31 (i) Real and tangible personal property owned by the seller shall  
32 be valued at original cost. Real and tangible personal property rented  
33 by the taxpayer shall be valued at eight times the net annual rental  
34 rate paid by the taxpayer less any annual rental rate received from  
35 subrentals;

36 (ii) The average value of real and tangible personal property shall  
37 be determined by averaging the value at the beginning and the end of  
38 the taxable year or period, unless the department determines that an  
39 averaging of monthly values during the taxable year or period is

1 reasonably required to properly reflect the average value of the  
2 taxpayer's real and tangible personal property;

3 (c) The payroll factor is a fraction the numerator of which is the  
4 total amount paid in this state during the taxable year or period by  
5 the taxpayer for compensation and the denominator of which is the total  
6 compensation paid everywhere during the taxable year or period;

7 (i) As used in this subsection, the term "compensation" means  
8 wages, salaries, commissions, and any other form of remuneration paid  
9 to employees for personal services;

10 (ii) Compensation is paid in this state if:

11 (A) The employee's service is performed entirely within this state;  
12 or

13 (B) The employee's service is performed both within and without the  
14 state, but the service performed without the state is incidental to the  
15 employee's service within the state; or

16 (C) Some of the employee's service is performed in the state and  
17 the base of operations or the place from which the service is directed  
18 or controlled is within this state, or the base of operations or the  
19 place from which the service is directed or controlled is not in any  
20 state in which some part of the service is performed and the employee's  
21 residence is in any state;

22 (d) The sales factor is a fraction the numerator of which is the  
23 total sales of the taxpayer in this state during the taxable year or  
24 period and the denominator of which is the total sales of the taxpayer  
25 everywhere during the taxable year; or

26 (6) Notwithstanding the provisions of subsection (1), (2), (3),  
27 (4), or (5) of this section, if the buyer can demonstrate to the  
28 satisfaction of the department that the benefit of the service was  
29 received outside of this state, the service shall be deemed to have  
30 been received outside of this state.

31 NEW SECTION. **Sec. 111.** A new section is added to chapter 82.32  
32 RCW to read as follows:

33 If a retail service is initially taxable as of the effective date  
34 of this section, and the retail service is received prior to that date,  
35 it is not subject to tax under chapter 82.08, 82.12, or 82.14 RCW,  
36 notwithstanding that compensation for the service is paid or payable on  
37 or after that date. If the retail service is received on or after the  
38 effective date of this section, the service shall be taxed unless it

1 was paid in full before April 1, 1993. If the retail service is  
2 received over a period of time beginning prior to the effective date of  
3 this section and ending after that date, and full payment for the  
4 service has not been made before April 1, 1993, the service shall be  
5 taxed only upon that portion of the service received on or after the  
6 effective date of this section. If the retail service is performed  
7 under a contract signed prior to the effective date of this section,  
8 and such contract does not allow the seller to add the retail sales  
9 taxes imposed under chapter 82.08, 82.12, or 82.14 RCW to the contract  
10 price, the retail sales taxes imposed on retail services may not be  
11 imposed on that contract.

12 **Sec. 112.** RCW 82.04.480 and 1975 1st ex.s. c 278 s 44 are each  
13 amended to read as follows:

14 Every consignee, bailee, factor, or auctioneer having either actual  
15 or constructive possession of tangible personal property, or having  
16 possession of the documents of title thereto, with power to sell such  
17 tangible personal property in his or its own name and actually so  
18 selling, and every agent with power to sell services defined as retail  
19 sales in the agent's own name and actually so selling, shall be deemed  
20 the seller of such tangible personal property or services within the  
21 meaning of this chapter; and further, the consignor, bailor, principal,  
22 or owner shall be deemed a seller of such property or services to the  
23 consignee, bailee, factor, (~~or~~) auctioneer, or agent.

24 The burden shall be upon the taxpayer in every case to establish  
25 the fact that he or she is not engaged in the business of selling  
26 tangible personal property or services but is acting merely as broker  
27 or agent in promoting sales for a principal. Such claim will be  
28 allowed only when the taxpayer's accounting records are kept in such  
29 manner as the department of revenue shall by general regulation  
30 provide.

31 **Sec. 113.** RCW 82.08.090 and 1975 1st ex.s. c 278 s 49 are each  
32 amended to read as follows:

33 In the case of installment sales and leases of personal property or  
34 services defined as retail sales, the department of revenue, by  
35 regulation, may provide for the collection of taxes upon the  
36 installments of the purchase price, or amount of rental, as of the time  
37 the same fall due.

1       **Sec. 114.** RCW 82.12.0252 and 1980 c 37 s 52 are each amended to  
2 read as follows:

3       The provisions of this chapter shall not apply in respect to the  
4 use of any article of tangible personal property or service defined as  
5 a retail sale purchased at retail or acquired by lease, gift or  
6 bailment if the sale thereof to, or the use thereof by, the present  
7 user or ((his)) the user's bailor or donor has already been subjected  
8 to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid  
9 by the present user or by his bailor or donor; or in respect to the use  
10 of property acquired by bailment and such tax has once been paid based  
11 on reasonable rental as determined by RCW 82.12.060 measured by the  
12 value of the article or service at time of first use multiplied by the  
13 tax rate imposed by chapter 82.08 or 82.12 RCW as of the time of first  
14 use; or in respect to the use of any article of tangible personal  
15 property acquired by bailment, if the property was acquired by a  
16 previous bailee from the same bailor for use in the same general  
17 activity and such original bailment was prior to June 9, 1961.

18       **Sec. 115.** RCW 82.12.0255 and 1980 c 37 s 55 are each amended to  
19 read as follows:

20       The provisions of this chapter shall not apply in respect to the  
21 use of any article of tangible personal property or any service defined  
22 as a retail sale which the state is prohibited from taxing under the  
23 Constitution of the state or under the Constitution or laws of the  
24 United States.

25       **Sec. 116.** RCW 82.12.0259 and 1980 c 37 s 59 are each amended to  
26 read as follows:

27       The provisions of this chapter shall not apply in respect to the  
28 use of tangible personal property or services defined as retail sales  
29 by corporations which have been incorporated under any act of the  
30 congress of the United States and whose principal purposes are to  
31 furnish volunteer aid to members of the armed forces of the United  
32 States and also to carry on a system of national and international  
33 relief and to apply the same in mitigating the sufferings caused by  
34 pestilence, famine, fire, flood, and other national calamities and to  
35 devise and carry on measures for preventing the same.

1       **Sec. 117.** RCW 82.12.035 and 1987 c 27 s 2 are each amended to read  
2 as follows:

3       A credit shall be allowed against the taxes imposed by this chapter  
4 upon the use of tangible personal property or services defined as  
5 retail sales in the state of Washington in the amount that the present  
6 user thereof or his or her bailor or donor has paid a retail sales or  
7 use tax with respect to such property or service to any other state of  
8 the United States, any political subdivision thereof, the District of  
9 Columbia, and any foreign country or political subdivision thereof,  
10 prior to the use of such property or service in Washington.

11       **Sec. 118.** RCW 82.12.060 and 1975 1st ex.s. c 278 s 54 are each  
12 amended to read as follows:

13       (1) In the case of installment sales and leases of personal  
14 property or services defined as retail sales, the department, by  
15 regulation, may provide for the collection of taxes upon the  
16 installments of the purchase price, or amount of rental, as of the time  
17 the same fall due.

18       (2) In the case of property acquired by bailment, the department,  
19 by regulation, may provide for payment of the tax due in installments  
20 based on the reasonable rental for the property as determined under RCW  
21 82.12.010(1).

22       **Sec. 119.** RCW 82.08.100 and 1982 1st ex.s. c 35 s 37 are each  
23 amended to read as follows:

24       (1) The department of revenue, by general regulation, shall provide  
25 that a taxpayer whose regular books of account are kept on a cash  
26 receipts basis may file returns based upon his or her cash receipts for  
27 each reporting period and pay the tax herein provided upon such basis  
28 in lieu of reporting and paying the tax on all sales made during such  
29 period. A taxpayer filing returns on a cash receipts basis is not  
30 required to pay such tax on debts which are deductible as worthless for  
31 federal income tax purposes. Absent regular books and records to  
32 substantiate the accounting method chosen, returns shall be reported in  
33 the same manner as reported for federal income tax purposes.

34       (2) The accounting method for taxes administered under this section  
35 shall be uniform for all excise taxes unless a combined method is first  
36 approved by the department.

1       (3) A taxpayer may convert its reporting method to a different  
2 method that has prior approval by the department if the conversion  
3 satisfies the requirement in the rules adopted by the department  
4 pertaining to adjustments necessary to account for all income. The  
5 department may not withhold its approval unless the taxpayer cannot,  
6 for whatever reason, make the necessary adjustments to account for all  
7 income. The department may permit adjustments that cause an increase  
8 in the income to be amortized over a period not to exceed twelve  
9 consecutive months.

10       **Sec. 120.** RCW 82.14.020 and 1983 2nd ex.s. c 3 s 31 are each  
11 amended to read as follows:

12       For purposes of this chapter:

13       (1) A retail sale consisting solely of the sale of tangible  
14 personal property shall be deemed to have occurred at the retail outlet  
15 at or from which delivery is made to the consumer;

16       (2) A retail sale consisting essentially of the performance of  
17 personal business or professional services shall be deemed to have  
18 occurred at the place at which such services were primarily performed.  
19 A retail sale of a service defined as a retail sale shall be considered  
20 to have occurred at the place where the benefit is received;

21       (3) A retail sale consisting of the rental of tangible personal  
22 property shall be deemed to have occurred (a) in the case of a rental  
23 involving periodic rental payments, at the primary place of use by the  
24 lessee during the period covered by each payment, or (b) in all other  
25 cases, at the place of first use by the lessee;

26       (4) A retail sale within the scope of the second paragraph of RCW  
27 82.04.050, and a retail sale of taxable personal property to be  
28 installed by the seller shall be deemed to have occurred at the place  
29 where the labor and services involved were primarily performed;

30       (5) A retail sale consisting of the providing to a consumer of  
31 telephone service, as defined in RCW 82.04.065, other than a sale of  
32 tangible personal property under subsection (1) of this section or a  
33 rental of tangible personal property under subsection (3) of this  
34 section, shall be deemed to have occurred at the situs of the telephone  
35 or other instrument through which the telephone service is rendered;

36       (6) "City" means a city or town;

37       (7) The meaning ascribed to words and phrases in chapters 82.04,  
38 82.08 and 82.12 RCW, as now or hereafter amended, insofar as

1 applicable, shall have full force and effect with respect to taxes  
2 imposed under authority of this chapter;

3 (8) "Taxable event" shall mean any retail sale, or any use of an  
4 article of tangible personal property, upon which a state tax is  
5 imposed pursuant to chapter 82.08 or 82.12 RCW, as they now exist or  
6 may hereafter be amended: PROVIDED, HOWEVER, That the term shall not  
7 include a retail sale taxable pursuant to RCW 82.08.150, as now or  
8 hereafter amended;

9 (9) "Treasurer or other legal depository" shall mean the treasurer  
10 or legal depository of a county or city.

11 (End of part)



1 ceased operations or during the period when the plant was in imminent  
2 danger of ceasing operations, on the proposed operation of the plant  
3 and on the terms and conditions of employment for wage and salaried  
4 employees and (ii) has obtained a written concurrence from the  
5 bargaining unit on the decision to apply for a deferral under this  
6 chapter; or

7 (d) Modernization projects involving construction, acquisition, or  
8 upgrading of equipment or machinery, including services and labor,  
9 which are commenced after May 19, 1987, and are intended to increase  
10 the operating efficiency of existing plants which are either aluminum  
11 smelters or aluminum rolling mills or of facilities related to such  
12 plants, if the plant was in operation prior to 1975, and if the person  
13 applying for a deferral (i) has consulted with any collective  
14 bargaining unit that represents employees of the plant on the proposed  
15 operation of the plant and the terms and conditions of employment for  
16 wage and salaried employees and (ii) has obtained a written concurrence  
17 from the bargaining unit on the decision to apply for a deferral under  
18 this chapter.

19 (5) "Manufacturing" means all activities of a commercial or  
20 industrial nature wherein labor or skill is applied, by hand or  
21 machinery, to materials so that as a result thereof a new, different,  
22 or useful substance or article of tangible personal property is  
23 produced for sale or commercial or industrial use and includes the  
24 production or fabrication of specially made or custom-made articles.

25 (6) "Research and development" means the development, refinement,  
26 testing, marketing, and commercialization of a product, service, or  
27 process before commercial sales have begun.

28 (7) "Buildings" means only those new structures used for either  
29 manufacturing or research and development activities, including plant  
30 offices and warehouses or other facilities for the storage of raw  
31 materials or finished goods if such facilities are an essential or an  
32 integral part of a factory, mill, plant, or laboratory used for  
33 manufacturing or research and development purposes. If a building is  
34 used partly for manufacturing or research and development and partly  
35 for other purposes, the applicable tax deferral shall be determined by  
36 apportionment of the costs of construction under rules adopted by the  
37 department.

38 (8) "Machinery and equipment" means all industrial and research  
39 fixtures, equipment, and support facilities that are an integral and

1 necessary part of a manufacturing or research and development  
2 operation. "Qualified machinery and equipment" includes computers;  
3 software; data processing equipment; laboratory equipment;  
4 manufacturing components such as belts, pulleys, shafts, and moving  
5 parts; molds, tools, and dies; operating structures; and all equipment  
6 used to control or operate the machinery. For purposes of this  
7 chapter, new machinery and equipment means either new to the taxing  
8 jurisdiction of the state or new to the certificate holder. Used  
9 machinery and equipment may be treated as new equipment and machinery  
10 if the certificate holder either brings the machinery and equipment  
11 into Washington or makes a retail purchase of the machinery and  
12 equipment in Washington or elsewhere.

13 (9) "Qualified employment position" means a permanent full-time  
14 employee employed in the eligible investment project during the entire  
15 tax year.

16 (10) "Recipient" means a person receiving a tax deferral under this  
17 chapter.

18 (11) "Certificate holder" means an applicant to whom a tax deferral  
19 certificate has been issued.

20 (12) "Operationally complete" means constructed or improved to the  
21 point of being functionally useable for the intended purpose.

22 (13) "Initiation of construction" means that date upon which on-  
23 site construction commences.

24 **Sec. 203.** RCW 82.61.040 and 1988 c 41 s 2 are each amended to read  
25 as follows:

26 RCW 82.61.020 and 82.61.030 shall expire July 1, (~~1994~~) 1998.

27 **Sec. 204.** RCW 82.61.070 and 1988 c 41 s 3 are each amended to read  
28 as follows:

29 The department and the department of trade and economic development  
30 shall jointly report to the legislature about the effects of this  
31 chapter on new manufacturing and research and development activities in  
32 this state. The report shall contain information concerning the number  
33 of deferral certificates granted, the amount of sales tax deferred, the  
34 number of jobs created and other information useful in measuring such  
35 effects. Reports shall be submitted by January 1, 1986, and by January  
36 1 of each year through (~~1995~~) 1999.





1 of the threshold amount multiplied by the number of months in the  
2 reporting period.

3 (4) If a taxpayer engages in more than one business activity only  
4 a single deduction using a single threshold amount applied against the  
5 combined measures of tax is allowed under this section. The taxpayer  
6 may specify how the deduction is to be divided among the measures of  
7 tax.

8 **Sec. 302.** RCW 82.32.030 and 1992 c 206 s 8 are each amended to  
9 read as follows:

10 (1) Except as provided in subsection (2) of this section, if any  
11 person engages in any business or performs any act upon which a tax is  
12 imposed by the preceding chapters, he or she shall, under such rules as  
13 the department of revenue shall prescribe, apply for and obtain from  
14 the department a registration certificate (~~upon payment of fifteen~~  
15 ~~dollars~~). Such registration certificate shall be personal and  
16 nontransferable and shall be valid as long as the taxpayer continues in  
17 business and pays the tax accrued to the state. In case business is  
18 transacted at two or more separate places by one taxpayer, a separate  
19 registration certificate for each place at which business is transacted  
20 with the public shall be required(~~(, but, for such additional~~  
21 ~~certificates no additional payment shall be required)~~). Each  
22 certificate shall be numbered and shall show the name, residence, and  
23 place and character of business of the taxpayer and such other  
24 information as the department of revenue deems necessary and shall be  
25 posted in a conspicuous place at the place of business for which it is  
26 issued. Where a place of business of the taxpayer is changed, the  
27 taxpayer must return to the department the existing certificate, and a  
28 new certificate will be issued for the new place of business (~~free of~~  
29 ~~charge~~). No person required to be registered under this section shall  
30 engage in any business taxable hereunder without first being so  
31 registered. The department, by rule, may provide for the issuance of  
32 certificates of registration(~~(, without requiring payment,)~~) to  
33 temporary places of business (~~or to persons who are exempt from tax~~  
34 ~~under RCW 82.04.300~~)).

35 (2) Registration under this section is not required if the  
36 following conditions are met:

37 (a) A person's value of products, gross proceeds of sales, or gross  
38 income of the business (~~is below the tax reporting threshold provided~~

1 in RCW 82.04.300)), from all business activities, is less than one  
2 thousand dollars per month;

3 (b) The person is not required to collect or pay to the department  
4 of revenue any other tax which the department is authorized to collect;  
5 and

6 (c) The person is not otherwise required to obtain a license  
7 subject to the master application procedure provided in chapter 19.02  
8 RCW.

9 **Sec. 303.** RCW 70.95E.020 and 1990 c 114 s 12 are each amended to  
10 read as follows:

11 A fee is imposed for the privilege of generating or potentially  
12 generating hazardous waste in the state. The annual amount of the fee  
13 shall be thirty-five dollars upon every known generator or potential  
14 generator doing business in Washington in the current calendar year or  
15 any part thereof. This fee shall be collected by the department of  
16 revenue. A potential generator shall be exempt from the fee imposed  
17 under this section if the ~~((potential generator is entitled to the~~  
18 ~~exemption in RCW 82.04.300))~~ value of products, gross proceeds of  
19 sales, or gross income of the business, from all business activities of  
20 the potential generator, is less than twelve thousand dollars in the  
21 current calendar year. The department shall, subject to appropriation,  
22 use the funds collected from the fees assessed in this subsection to  
23 support the activities of the office of waste reduction as specified in  
24 RCW 70.95C.030. The fee imposed pursuant to this section shall be  
25 first due on July 31, 1990, for any generator or potential generator  
26 operating in Washington from March 21, 1990, to December 31, 1990, or  
27 any part thereof.

28 NEW SECTION. **Sec. 304.** RCW 82.04.300 and 1992 c 206 s 7, 1983 c  
29 3 s 213, 1979 ex.s. c 196 s 4, 1975 1st ex.s. c 278 s 41, 1961 c 293 s  
30 3, & 1961 c 15 s 82.04.300 are each repealed.

31 (End of part)



1 acting in concert. In adopting a rule for this purpose, the department  
2 shall consider the following:

3 (a) Persons shall be treated as acting in concert when they have a  
4 relationship with each other such that one person influences or  
5 controls the actions of another through common ownership; and

6 (b) When persons are not commonly owned or controlled, they shall  
7 be treated as acting in concert only when the unity with which the  
8 purchasers have negotiated and will consummate the transfer of  
9 ownership interests supports a finding that they are acting as a single  
10 entity. If the acquisitions are completely independent, with each  
11 purchaser buying without regard to the identity of the other  
12 purchasers, then the acquisitions shall be considered separate  
13 acquisitions.

14 (3) The term "sale" shall not include:

15 (a) A transfer by gift((~~7~~)) to a family member or to a public  
16 benefit nonprofit organization which is exempt from property tax by  
17 chapter 84.36 RCW. For purposes of this section: "Family member"  
18 means the transferor, the transferor's spouse, grandparents, parents,  
19 children, grandchildren, or great-grandchildren; and a "public benefit  
20 nonprofit organization" means an organization defined in RCW 82.04.366.

21 (b) A transfer by devise((~~7~~)) or inheritance((~~7~~)).

22 (c) A transfer of any leasehold interest other than of the type  
23 mentioned above((~~7~~)).

24 (d) A cancellation or forfeiture of a vendee's interest in a  
25 contract for the sale of real property, whether or not such contract  
26 contains a forfeiture clause, or deed in lieu of foreclosure of a  
27 mortgage ((~~or the assumption by a grantee of the balance owing on an~~  
28 obligation which is secured by a mortgage or deed in lieu of forfeiture  
29 of the vendee's interest in a contract of sale where no consideration  
30 passes otherwise or)).

31 (e) The partition of property by tenants in common by agreement or  
32 as the result of a court decree((~~7~~, ~~any transfer, conveyance, or~~)).

33 (f) The assignment of property or interest in property from one  
34 spouse to the other in accordance with the terms of a decree of divorce  
35 or in fulfillment of a property settlement agreement ((~~incident~~  
36 thereto~~7~~)).

37 (g) The assignment or other transfer of a vendor's interest in a  
38 contract for the sale of real property, even though accompanied by a  
39 conveyance of the vendor's interest in the real property involved((~~7~~)).

1        (h) Transfers by appropriation or decree in condemnation  
2 proceedings brought by the United States, the state or any political  
3 subdivision thereof, or a municipal corporation(~~(7)~~).

4        (i) A mortgage or other transfer of an interest in real property  
5 merely to secure a debt, or the assignment thereof(~~(7)~~).

6        (j) Any transfer or conveyance made pursuant to an order of sale by  
7 the court in any mortgage or lien foreclosure proceeding or upon  
8 execution of a judgment, or deed in lieu of foreclosure to satisfy a  
9 mortgage(~~(7)~~).

10       (k) A conveyance to the federal housing administration or veterans  
11 administration by an authorized mortgagee made pursuant to a contract  
12 of insurance or guaranty with the federal housing administration or  
13 veterans administration(~~(7-nor)~~).

14       (l) A transfer in compliance with the terms of any lease or  
15 contract upon which the tax as imposed by this chapter has been paid or  
16 where the lease or contract was entered into prior to the date this tax  
17 was first imposed(~~(7-nor)~~).

18       (m) The sale of any grave or lot in an established cemetery(~~(7-~~  
19 ~~nor)~~).

20       (n) A sale by (~~(or to)~~) the United States, this state or any  
21 political subdivision thereof, or a municipal corporation of this  
22 state.

23       (~~The term sale shall further not include~~) (o) A transfer of real  
24 property, however effected, if it consists of a mere change in identity  
25 or form of ownership of an entity where there is no change in the  
26 beneficial ownership. These include transfers to a corporation or  
27 partnership which is wholly owned by the transferor and/or the  
28 transferor's spouse or children: PROVIDED, That if thereafter such  
29 transferee corporation or partnership voluntarily transfers such real  
30 property, or such transferor, spouse, or children voluntarily transfer  
31 stock in the transferee corporation or interest in the transferee  
32 partnership capital, as the case may be, to other than (1) the  
33 transferor and/or the transferor's spouse or children, (2) a trust  
34 having the transferor and/or the transferor's spouse or children as the  
35 only beneficiaries at the time of the transfer to the trust, or (3) a  
36 corporation or partnership wholly owned by the original transferor  
37 and/or the transferor's spouse or children, within (~~(five)~~) three years  
38 of the original transfer to which this exemption applies, and the tax  
39 on the subsequent transfer has not been paid within sixty days of

1 becoming due, excise taxes shall become due and payable on the original  
2 transfer as otherwise provided by law.

3 (4) The department shall adopt rules to implement this section and  
4 the department shall be guided in the adoption of such rules defining  
5 when a mere change in identity or form of ownership without a change in  
6 beneficial ownership has occurred by the nonrecognition of gain  
7 principles for entity formation, liquidation or dissolution, and  
8 reorganization provided in the Internal Revenue Code of 1986, as  
9 amended or renumbered.

10 **Sec. 403.** RCW 82.45.030 and 1969 ex.s. c 223 s 28A.45.030 are each  
11 amended to read as follows:

12 (1) As used in this chapter, the term "selling price" means the  
13 ((consideration,—including)) true and fair value of the property  
14 conveyed. If property has been conveyed in an arm's length transaction  
15 between unrelated persons for a valuable consideration, a rebuttable  
16 presumption exists that the selling price is equal to the total  
17 consideration paid or contracted to be paid to the transferor, or to  
18 another for the transferor's benefit.

19 (2) If the sale is a transfer of a controlling interest in an  
20 entity with an interest in real property located in this state, the  
21 selling price shall be determined as follows:

22 (a) If the controlling interest is acquired in an arm's-length  
23 transaction between unrelated persons for a valuable consideration, the  
24 selling price equals the total consideration paid or contracted to be  
25 paid to the transferor, or to another for the transferor's benefit,  
26 multiplied by a fraction. The numerator of the fraction is the fair  
27 market value of the real property owned by the entity and located in  
28 Washington. The denominator of the fraction is the fair market value  
29 of all of the assets of the entity, exclusive of goodwill.

30 (b) If the controlling interest is acquired in a transaction other  
31 than as described in (a) of this subsection, the selling price equals  
32 the true and fair value of the real property owned by the entity and  
33 located in this state. If the true and fair value of the real property  
34 located in this state cannot reasonably be determined, the selling  
35 price shall be determined according to subsection (4) of this section.

36 (3) As used in this section, "total consideration paid or  
37 contracted to be paid" includes money or anything of value, paid or  
38 delivered or contracted to be paid or delivered in return for the

1 (~~transfer of the real property or estate or interest in real~~  
2 ~~property~~) sale, and shall include the amount of any lien, mortgage,  
3 contract indebtedness, or other incumbrance, either given to secure the  
4 purchase price, or any part thereof, or remaining unpaid on such  
5 property at the time of sale.

6 (~~The term~~) Total consideration shall not include the amount of  
7 any outstanding lien or incumbrance in favor of the United States, the  
8 state, or a municipal corporation for (~~the~~) taxes, special benefits,  
9 or improvements.

10 (4) If the total consideration for the sale cannot be ascertained  
11 or the true and fair value of the property to be valued at the time of  
12 the sale cannot reasonably be determined, the market value assessment  
13 for the property maintained on the county property tax rolls at the  
14 time of the sale shall be used as the selling price.

15 **Sec. 404.** RCW 82.45.032 and 1986 c 211 s 1 are each amended to  
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

19 (1) "Real estate" or "real property" means (~~real property but~~  
20 ~~includes~~) any interest, estate, or beneficial interest in land or  
21 anything affixed to land, including the ownership interest or  
22 beneficial interest in any entity which itself owns land or anything  
23 affixed to land. The term includes used mobile homes (~~and~~), used  
24 floating homes, and improvements constructed upon leased land.

25 (2) "Used mobile home" means a mobile home which has been  
26 previously sold at retail and has been subjected to tax under chapter  
27 82.08 RCW, or which has been previously used and has been subjected to  
28 tax under chapter 82.12 RCW, and which has substantially lost its  
29 identity as a mobile unit at the time of sale by virtue of its being  
30 fixed in location upon land owned or leased by the owner of the mobile  
31 home and placed on a foundation (posts or blocks) with fixed pipe  
32 connections with sewer, water, and other utilities.

33 (3) "Mobile home" means a mobile home as defined by RCW 46.04.302,  
34 as now or hereafter amended.

35 (4) "Used floating home" means a floating home in respect to which  
36 tax has been paid under chapter 82.08 or 82.12 RCW.

37 (5) "Floating home" means a building on a float used in whole or in  
38 part for human habitation as a single-family dwelling, which is not

1 designed for self propulsion by mechanical means or for propulsion by  
2 means of wind, and which is on the property tax rolls of the county in  
3 which it is located.

4 NEW SECTION. **Sec. 405.** A new section is added to chapter 82.45  
5 RCW to read as follows:

6 As used in this chapter, the term "controlling interest" has the  
7 following meaning:

8 (1) In the case of a corporation, either fifty percent or more of  
9 the total combined voting power of all classes of stock of the  
10 corporation entitled to vote, or fifty percent of the capital, profits,  
11 or beneficial interest in the voting stock of the corporation; and

12 (2) In the case of a partnership, association, trust, or other  
13 entity, fifty percent or more of the capital, profits, or beneficial  
14 interest in such partnership, association, trust, or other entity.

15 **Sec. 406.** RCW 82.45.060 and 1987 c 472 s 14 are each amended to  
16 read as follows:

17 ~~((1))~~ There is imposed an excise tax upon each sale of real  
18 property at the rate of one and twenty-eight one-hundredths percent on  
19 that portion of the selling price that is less than or equal to five  
20 hundred thousand dollars and one and forty-eight one-hundredths percent  
21 on that portion of the selling price that is over this amount. An  
22 amount equal to seven and seven-tenths percent of the proceeds of this  
23 tax remitted to the state treasurer shall be deposited in the public  
24 works assistance account created in RCW 43.155.050.

25 ~~((2) There is imposed an additional excise tax through June 30,~~  
26 ~~1989, upon each sale of real property at the rate of six one-hundredths~~  
27 ~~of one percent of the selling price. The tax imposed under this~~  
28 ~~subsection shall be deposited in the conservation area account under~~  
29 ~~RCW 79.71.110.))~~

30 **Sec. 407.** RCW 82.45.090 and 1991 c 327 s 6 are each amended to  
31 read as follows:

32 (1) Except for a sale of a beneficial interest in real property  
33 where no instrument evidencing the sale is recorded in the official  
34 real property records of the county in which the property is located,  
35 the tax imposed by this chapter shall be paid to and collected by the  
36 treasurer of the county within which is located the real property which

1 was sold(~~(, said)~~). In collecting the tax the treasurer ((acting))  
2 shall act as agent for the state. The county treasurer shall cause a  
3 stamp evidencing satisfaction of the lien to be affixed to the  
4 instrument of sale or conveyance prior to its recording or to the real  
5 estate excise tax affidavit in the case of used mobile home sales and  
6 used floating home sales. A receipt issued by the county treasurer for  
7 the payment of the tax imposed under this chapter shall be evidence of  
8 the satisfaction of the lien imposed hereunder and may be recorded in  
9 the manner prescribed for recording satisfactions of mortgages. No  
10 instrument of sale or conveyance evidencing a sale subject to the tax  
11 shall be accepted by the county auditor for filing or recording until  
12 the tax shall have been paid and the stamp affixed thereto; in case the  
13 tax is not due on the transfer, the instrument shall not be so accepted  
14 until suitable notation of such fact has been made on the instrument by  
15 the treasurer.

16 (2) For a sale of a beneficial interest in real property where no  
17 instrument is recorded in the official real property records of the  
18 county in which the property is located, the sale shall be reported to  
19 the department of revenue within five days from the date of the sale on  
20 such returns or forms and according to such procedures as the  
21 department may prescribe. Such forms or returns shall be signed by  
22 both the transferor and the transferee and shall be accompanied by  
23 payment of any tax due. Any person who intentionally makes a false  
24 statement on any return or form required to be filed with the  
25 department under this chapter shall be guilty of perjury.

26 **Sec. 408.** RCW 82.45.100 and 1988 c 286 s 5 are each amended to  
27 read as follows:

28 (1) The tax imposed under this chapter is due and payable  
29 immediately at the time of sale, and if not paid within thirty days  
30 thereafter shall bear interest at the rate of one percent per month  
31 from the time of sale until the date of payment.

32 (2) In addition to the interest described in subsection (1) of this  
33 section, if the payment of any tax is not received by the county  
34 treasurer or the department of revenue, as the case may be, within  
35 thirty days of the date due, there shall be assessed a penalty of five  
36 percent of the amount of the tax; if the tax is not received within  
37 sixty days of the date due, there shall be assessed a total penalty of  
38 ten percent of the amount of the tax; and if the tax is not received

1 within ninety days of the date due, there shall be assessed a total  
2 penalty of twenty percent of the amount of the tax. The payment of the  
3 penalty described in this subsection shall be collectible from the  
4 seller only, and RCW 82.45.070 does not apply to the penalties  
5 described in this subsection.

6 (3) If the tax imposed under this chapter is not received by the  
7 due date, the transferee shall be personally liable for the tax, along  
8 with any interest as provided in subsection (1) of this section,  
9 unless:

10 (a) An instrument evidencing the sale is recorded in the official  
11 real property records of the county in which the property conveyed is  
12 located; or

13 (b) Either the transferor or transferee notifies the miscellaneous  
14 tax division of the department of revenue in writing of the occurrence  
15 of the sale within thirty days following the date of the sale.

16 (4) If upon examination of any affidavits or from other information  
17 obtained by the department or its agents it appears that all or a  
18 portion of the tax is unpaid, the department shall assess against the  
19 taxpayer the additional amount found to be due plus interest and  
20 penalties as provided in subsections (1) and (2) of this section. If  
21 the department finds that all or any part of the deficiency resulted  
22 from an intent to evade the tax payable under this chapter, an  
23 additional penalty of fifty percent of the additional tax found to be  
24 due shall be added.

25 ~~((4))~~ (5) No assessment or refund may be made by the department  
26 more than four years after the date of sale except upon a showing of:

27 (a) Fraud or ((of)) misrepresentation of a material fact by the  
28 taxpayer ((or));

29 (b) A failure by the taxpayer to record documentation of a sale or  
30 otherwise report the sale to the county treasurer; or

31 (c) A failure of the transferor or transferee to report the sale  
32 under RCW 82.45.090(2).

33 ~~((5))~~ (6) Penalties collected pursuant to subsection (2) of this  
34 section shall be deposited in the housing trust fund as described in  
35 chapter 43.185 RCW.

36 NEW SECTION. Sec. 409. Any ordinance imposing a tax under chapter  
37 82.46 RCW which is in effect on the effective date of this section  
38 shall apply to all sales taxable under chapter 82.45 RCW on the

1 effective date of this section at the rate specified in the ordinance,  
2 until such time as the ordinance is otherwise amended or repealed.

3 **Sec. 410.** RCW 82.45.150 and 1981 c 167 s 1 are each amended to  
4 read as follows:

5 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.040,  
6 82.32.050, 82.32.140, and 82.32.270 and except for the penalties and  
7 the limitations thereon imposed by RCW 82.32.090, applies to the tax  
8 imposed by this chapter, in addition to any other provisions of law for  
9 the payment and enforcement of the tax imposed by this chapter. The  
10 department of revenue shall by rule provide for the effective  
11 administration of this chapter. The rules shall ~~((also include a~~  
12 ~~manual which defines transactions which are taxable under))~~ prescribe  
13 and furnish a real estate excise tax affidavit form verified by both  
14 the seller and the buyer, or agents of each, to be used by each county,  
15 or the department, as the case may be, in the collection of the tax  
16 imposed by this chapter. The department of revenue shall annually  
17 conduct audits of transactions and affidavits filed under this chapter.

18 **Sec. 411.** RCW 82.45.180 and 1991 c 245 s 15 are each amended to  
19 read as follows:

20 (1) For taxes collected by the county under this chapter, the  
21 county treasurer shall collect a two-dollar fee on all transactions  
22 required by this chapter where the transaction does not require the  
23 payment of tax. The county treasurer shall place one percent of the  
24 proceeds of the tax imposed by this chapter and the treasurer's fee in  
25 the county current expense fund to defray costs of collection and shall  
26 pay over to the state treasurer and account to the department of  
27 revenue for the remainder of the proceeds at the same time the county  
28 treasurer remits funds to the state under RCW 84.56.280. ((The  
29 proceeds of the tax on any sale occurring prior to September 1, 1981,  
30 when the proceeds have not been certified by an educational service  
31 district superintendent for school districts prior to September 1,  
32 1981, shall be included in the amount remitted to the state  
33 treasurer.)) The state treasurer shall deposit the proceeds in the  
34 general fund for the support of the common schools.

35 (2) For taxes collected by the department of revenue under this  
36 chapter, the department shall remit the tax to the state treasurer who  
37 shall deposit the proceeds of any state tax in the general fund for the

1 support of the common schools. The state treasurer shall deposit the  
2 proceeds of any local taxes imposed under chapter 82.46 RCW in the  
3 local real estate excise tax account hereby created in the state  
4 treasury. Moneys in the local real estate excise tax account may be  
5 spent only for distribution to counties, cities, and towns imposing a  
6 tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all  
7 earnings of investments of balances in the local real estate excise tax  
8 account shall be credited to the local real estate excise tax account  
9 and distributed to the counties, cities, and towns monthly. Monthly  
10 the state treasurer shall make distribution from the local real estate  
11 excise tax account to the counties, cities, and towns the amount of tax  
12 collected on behalf of each taxing authority. The state treasurer  
13 shall make the distribution under this subsection without  
14 appropriation.

15 **Sec. 412.** RCW 43.84.092 and 1993 c 4 s 9 are each amended to read  
16 as follows:

17 (1) All earnings of investments of surplus balances in the state  
18 treasury shall be deposited to the treasury income account, which  
19 account is hereby established in the state treasury.

20 (2) Monthly, the state treasurer shall distribute the earnings  
21 credited to the treasury income account. The state treasurer shall  
22 credit the general fund with all the earnings credited to the treasury  
23 income account except:

24 (a) The following accounts and funds shall receive their  
25 proportionate share of earnings based upon each account's and fund's  
26 average daily balance for the period: The capitol building  
27 construction account, the Cedar River channel construction and  
28 operation account, the Central Washington University capital projects  
29 account, the charitable, educational, penal and reformatory  
30 institutions account, the common school construction fund, the county  
31 criminal justice assistance account, the county sales and use tax  
32 equalization account, the data processing building construction  
33 account, the deferred compensation administrative account, the deferred  
34 compensation principal account, the department of retirement systems  
35 expense account, the Eastern Washington University capital projects  
36 account, the federal forest revolving account, the industrial insurance  
37 premium refund account, the judges' retirement account, the judicial  
38 retirement administrative account, the judicial retirement principal

1 account, the local leasehold excise tax account, the local real estate  
2 excise tax account, the local sales and use tax account, the medical  
3 aid account, the municipal criminal justice assistance account, the  
4 municipal sales and use tax equalization account, the natural resources  
5 deposit account, the perpetual surveillance and maintenance account,  
6 the public employees' retirement system plan I account, the public  
7 employees' retirement system plan II account, the Puyallup tribal  
8 settlement account, the resource management cost account, the site  
9 closure account, the special wildlife account, the state employees'  
10 insurance account, the state employees' insurance reserve account, the  
11 state investment board expense account, the state investment board  
12 commingled trust fund accounts, the supplemental pension account, the  
13 teachers' retirement system plan I account, the teachers' retirement  
14 system plan II account, the University of Washington bond retirement  
15 fund, the University of Washington building account, the volunteer fire  
16 fighters' relief and pension principal account, the volunteer fire  
17 fighters' relief and pension administrative account, the Washington  
18 judicial retirement system account, the Washington law enforcement  
19 officers' and fire fighters' system plan I retirement account, the  
20 Washington law enforcement officers' and fire fighters' system plan II  
21 retirement account, the Washington state patrol retirement account, the  
22 Washington State University building account, the Washington State  
23 University bond retirement fund, and the Western Washington University  
24 capital projects account. Earnings derived from investing balances of  
25 the agricultural permanent fund, the normal school permanent fund, the  
26 permanent common school fund, the scientific permanent fund, and the  
27 state university permanent fund shall be allocated to their respective  
28 beneficiary accounts. All earnings to be distributed under this  
29 subsection (2)(a) shall first be reduced by the allocation to the state  
30 treasurer's service fund pursuant to RCW 43.08.190.

31 (b) The following accounts and funds shall receive eighty percent  
32 of their proportionate share of earnings based upon each account's or  
33 fund's average daily balance for the period: The central Puget Sound  
34 public transportation account, the city hardship assistance account,  
35 the county arterial preservation account, the economic development  
36 account, the essential rail assistance account, the essential rail  
37 banking account, the ferry bond retirement fund, the grade crossing  
38 protective fund, the high capacity transportation account, the highway  
39 bond retirement fund, the highway construction stabilization account,

1 the highway safety account, the marine operating fund, the motor  
2 vehicle fund, the motorcycle safety education account, the pilotage  
3 account, the public transportation systems account, the Puget Sound  
4 capital construction account, the Puget Sound ferry operations account,  
5 the recreational vehicle account, the rural arterial trust account, the  
6 special category C account, the state patrol highway account, the  
7 transfer relief account, the transportation capital facilities account,  
8 the transportation equipment fund, the transportation fund, the  
9 transportation improvement account, and the urban arterial trust  
10 account.

11 (3) In conformance with Article II, section 37 of the state  
12 Constitution, no treasury accounts or funds shall be allocated earnings  
13 without the specific affirmative directive of this section.

14 NEW SECTION. **Sec. 413.** The following acts or parts of acts are  
15 each repealed:

- 16 (1) 1991 sp.s. c 22 s 1 (uncodified);  
17 (2) RCW 82.45A.010 and 1991 sp.s. c 22 s 2;  
18 (3) RCW 82.45A.020 and 1991 sp.s. c 22 s 3;  
19 (4) RCW 82.45A.030 and 1991 sp.s. c 22 s 4; and  
20 (5) RCW 82.45.120 and 1981 c 167 s 5, 1980 c 134 s 1, & 1969 ex.s.  
21 c 223 s 28A.45.120.

22 NEW SECTION. **Sec. 414.** The repeals in section 413 of this act  
23 shall not be construed as affecting any existing right acquired or  
24 liability or obligation incurred under the sections repealed or under  
25 any rule or order adopted under those sections, nor as affecting any  
26 proceeding instituted under those sections.

27 (End of part)



1       (7) "Internal Revenue Code" means the United States Internal  
2 Revenue Code of 1986, as amended or renumbered;

3       (8) "Nonresident" means a decedent who was domiciled outside  
4 Washington at his or her death;

5       (9) "Person" means any individual, estate, trust, receiver,  
6 cooperative association, club, corporation, company, firm, partnership,  
7 joint venture, syndicate, or other entity and, to the extent permitted  
8 by law, any federal, state, or other governmental unit or subdivision  
9 or agency, department, or instrumentality thereof;

10       (10) "Person required to file the federal return" and "taxpayer"  
11 means any person required to file a return required by chapter 11 or 13  
12 of the Internal Revenue Code (~~(of 1986, as amended or renumbered)~~),  
13 such as the personal representative of an estate; or a transferor,  
14 trustee, or beneficiary of a generation-skipping transfer; or a  
15 qualified heir with respect to qualified real property, as defined and  
16 used in section 2032A(c) of the (~~United States~~) Internal Revenue Code  
17 (~~(of 1986, as amended or renumbered)~~);

18       (11) "Property" means (a) for a transfer, property included in the  
19 gross estate; and (b) for a generation-skipping transfer, all real and  
20 personal property subject to the federal tax;

21       (12) "Resident" means a decedent who was domiciled in Washington at  
22 time of death;

23       (13) "Transfer" means "transfer" as used in section 2001 of the  
24 (~~United States~~) Internal Revenue Code (~~(of 1986, as amended or~~  
25 ~~renumbered,~~) or a disposition or cessation of qualified use as defined  
26 and used in section 2032A(c) of the (~~United States~~) Internal Revenue  
27 Code (~~(of 1986, as amended or renumbered; and)~~);

28       (14) "Trust" means "trust" under Washington law and any arrangement  
29 described in section 2652 of the Internal Revenue Code (~~(of 1986, as~~  
30 ~~amended or renumbered.)~~);

31       (15) "Washington estate and transfer tax" means: (a) For a  
32 transfer, the maximum amount of tax provided in section 506(1) of this  
33 act; and (b) for a generation-skipping transfer, the maximum amount of  
34 tax provided in section 506(2) of this act; and

35       (~~(15)~~) (16) References in this chapter to the United States  
36 Internal Revenue Code of 1986, to a section or chapter of the code, and  
37 to regulations under the code are to the code, sections, chapters, and  
38 regulations in effect on (~~June 7, 1990~~) the effective date of this  
39 section.

1       **Sec. 503.** RCW 83.100.030 and 1988 c 64 s 3 are each amended to  
2 read as follows:

3       (1) A tax in an amount equal to the (~~federal credit~~) Washington  
4 estate and transfer tax is imposed on every transfer of property of a  
5 resident.

6       (2) If the transfer is subject to a similar tax imposed by another  
7 state (~~for which the federal credit is allowed~~), and if the tax  
8 imposed by the other state is not qualified by a reciprocal provision  
9 allowing the transfer to be taxed only in this state, the amount of the  
10 tax due under this section shall be credited with the lesser of:

11       (a) The amount of the death tax paid the other state (~~and credited~~  
12 ~~against the federal tax~~); or

13       (b) An amount computed by multiplying the (~~federal credit~~)  
14 Washington estate and transfer tax by a fraction, the numerator of  
15 which is the value of the property subject to the tax imposed by the  
16 other state, and the denominator of which is the value of the  
17 decedent's gross estate.

18       **Sec. 504.** RCW 83.100.040 and 1988 c 64 s 4 are each amended to  
19 read as follows:

20       (1) A tax in an amount computed as provided in this section is  
21 imposed on every transfer of property located in Washington of every  
22 nonresident.

23       (2) The tax shall be computed by multiplying the (~~federal credit~~)  
24 Washington estate and transfer tax by a fraction, the numerator of  
25 which is the value of the property located in Washington, and the  
26 denominator of which is the value of the decedent's gross estate.

27       (3) The transfer of the property of a nonresident is exempt from  
28 the tax imposed by this section to the extent that the property of  
29 residents is exempt from taxation under the laws of the state in which  
30 the nonresident is domiciled.

31       **Sec. 505.** RCW 83.100.045 and 1988 c 64 s 5 are each amended to  
32 read as follows:

33       (1) A tax in an amount equal to the (~~federal credit~~) Washington  
34 estate and transfer tax is imposed on every generation-skipping  
35 transfer, if real or tangible personal property subject to the federal  
36 tax is located in this state or if the trust has its principal place of

1 administration in this state at the time of the generation-skipping  
2 transfer.

3 (2) If the generation-skipping transfer is subject to a similar tax  
4 imposed by another state (~~for which the federal credit is allowed~~),  
5 the amount of the tax due under this section shall be credited with the  
6 lesser of:

7 (a) The amount of the tax paid to the other state (~~and credited~~  
8 ~~against the federal tax~~); or

9 (b) An amount computed by multiplying the (~~federal credit~~)  
10 Washington estate and transfer tax by a fraction, the numerator of  
11 which is the value of the property subject to the generation-skipping  
12 transfer tax imposed by the other state, and the denominator of which  
13 is the value of all property subject to the federal tax.

14 NEW SECTION. Sec. 506. A new section is added to chapter 83.100  
15 RCW to read as follows:

16 (1) The Washington estate and transfer tax for an estate shall be  
17 the tax determined under subsection (3) of this section based on the  
18 amount upon which the tentative tax for federal estate tax purposes is  
19 computed under section 2001(b) of the Internal Revenue Code. However:

20 (a) No tax is imposed when the credits allowable to the decedent,  
21 except the credit allowed by section 2011 of the Internal Revenue Code,  
22 but including the credit allowed by section 2010 of the Internal  
23 Revenue Code, equals or exceeds the tentative tax as provided in  
24 section 2001(b) of the Internal Revenue Code for federal estate tax  
25 purposes; and

26 (b) The tax imposed by this section shall not exceed the amount of  
27 the taxable estate, as defined in section 2051 of the Internal Revenue  
28 Code, reduced by the net federal estate tax payable.

29 (2) The Washington estate and transfer tax for a generation-  
30 skipping transfer shall be the greater of:

31 (a) Ten percent of the taxable amount as provided in section  
32 2602(1) of the Internal Revenue Code; or

33 (b) The tax determined under subsection (3) of this section based  
34 on the taxable amount as provided in section 2602(1) of the Internal  
35 Revenue Code.

36 (3) Rate schedule:

37 If the tentative taxable The Washington estate and

1	amount or generation-skipping	transfer tax is:
2	taxable amount is:	
3	Not over \$90,000 . . . . .	1.6% of the excess
4		over \$40,000.
5	Over \$90,000 but . . . . .	\$800 plus 3.2% of the
6	not over \$140,000	excess over \$90,000.
7	Over \$140,000 but . . . . .	\$2,400 plus 4.8%
8	not over \$240,000	of the excess
9		over \$140,000.
10	Over \$240,000 but . . . . .	\$7,200 plus 6.4%
11	not over \$440,000	of the excess
12		over \$240,000.
13	Over \$440,000 but . . . . .	\$20,000 plus 8%
14	not over \$640,000	of the excess
15		over \$440,000.
16	Over \$640,000 but . . . . .	\$36,000 plus 9.6%
17	not over \$840,000	of the excess
18		over \$640,000.
19	Over \$840,000 but . . . . .	\$55,200 plus 11.2%
20	not over \$1,040,000	of the excess
21		over \$840,000.
22	Over \$1,040,000 but . . . . .	\$77,600 plus 12.8%
23	not over \$1,540,000	of the excess
24		over \$1,040,000.
25	Over \$1,540,000 but . . . . .	\$141,600 plus 14.4%
26	not over \$2,040,000	of the excess
27		over \$1,540,000.

1	Over \$2,040,000 but . . . . .	\$213,600 plus 16%
2	not over \$2,540,000	of the excess
3		over \$2,040,000.
4	Over \$2,540,000 but . . . . .	\$293,600 plus 17.6%
5	not over \$3,040,000	of the excess
6		over \$2,540,000.
7	Over \$3,040,000 but . . . . .	\$381,600 plus 19.2%
8	not over \$3,540,000	of the excess
9		over \$3,040,000.
10	Over \$3,540,000 but . . . . .	\$477,600 plus 20.8%
11	not over \$4,040,000	of the excess
12		over \$3,540,000.
13	Over \$4,040,000 but . . . . .	\$581,600 plus 22.4%
14	not over \$5,040,000	of the excess
15		over \$4,040,000.
16	Over \$5,040,000 but . . . . .	\$805,600 plus 24%
17	not over \$6,040,000	of the excess
18		over \$5,040,000.
19	Over \$6,040,000 but . . . . .	\$1,045,600 plus 25.6%
20	not over \$7,040,000	of the excess
21		over \$6,040,000.
22	Over \$7,040,000 but . . . . .	\$1,301,600 plus 27.2%
23	not over \$8,040,000	of the excess
24		over \$7,040,000.
25	Over \$8,040,000 but . . . . .	\$1,573,600 plus 28.8%
26	not over \$9,040,000	of the excess
27		over \$8,040,000.

1 Over \$9,040,000 but . . . . . \$1,861,600 plus 30.4%  
2 not over \$10,040,000 of the excess  
3 over \$9,040,000.

4 Over \$10,040,000 . . . . . \$2,165,600 plus 32%  
5 of the excess  
6 over \$10,040,000.

7 **Sec. 507.** RCW 83.100.050 and 1988 c 64 s 6 are each amended to  
8 read as follows:

9 (1) The person required to file the federal return shall file with  
10 the department on or before the date the federal return is required to  
11 be filed, including any extension of time for filing the federal  
12 return:

13 (a) A Washington return for the tax due under this chapter upon  
14 such forms and with such attachments as the department may prescribe;  
15 and

16 (b) A copy of the federal return, complete with attachments and  
17 accompanying documents.

18 (2) No Washington return need be filed if no federal return is  
19 required. A Washington return delivered to the department by United  
20 States mail shall be considered to have been received by the department  
21 on the date of the United States postmark stamped on the cover in which  
22 the return is mailed, if the postmark date is within the time allowed  
23 for filing the Washington return, including extensions.

24 ((+2)) (3) If the person required to file the federal return has  
25 obtained an extension of time for filing the federal return, the person  
26 shall file the Washington return within the same time period and in the  
27 same manner as provided for the federal return. A copy of the federal  
28 extension shall be filed with the department on or before the date the  
29 Washington return is due, not including any extension of time for  
30 filing, or within thirty days of issuance, whichever is later.

31 **Sec. 508.** RCW 83.100.070 and 1988 c 64 s 8 are each amended to  
32 read as follows:

33 (1) Any tax due under this chapter which is not paid by the due  
34 date under RCW 83.100.060(1) shall bear interest at the rate ((of  
35 ~~twelve percent per annum~~)) provided in RCW 82.32.050(2) from the date  
36 the tax is due until paid.

1       (2) (~~If the Washington return is not filed when due under RCW~~  
2 ~~83.100.050, then the person required to file the federal return shall~~  
3 ~~pay, in addition to interest, a penalty equal to five percent of the~~  
4 ~~tax due for each month after the date the return is due until filed.~~  
5 ~~No penalty may exceed twenty five percent of the tax.)) If payment of  
6 any tax due on a return to be filed by a taxpayer is not received by  
7 the department of revenue by the due date, including extensions, if  
8 any, the department shall assess a penalty of five percent of the  
9 amount of the tax; and if the tax is not received within thirty days  
10 after the due date, including extensions, if any, the department shall  
11 assess a total penalty of ten percent of the amount of the tax; and if  
12 the tax is not received within sixty days after the due date, including  
13 extensions, if any, the department shall assess a total penalty of  
14 twenty percent of the amount of the tax.~~

15       (3) If payment of any tax assessed by the department of revenue is  
16 not received by the department by the due date specified in the notice,  
17 or any extension, the department shall add a penalty of ten percent of  
18 the amount of the additional tax found due.

19       (4) If a warrant is issued by the department of revenue for the  
20 collection of taxes, increases, and penalties, the department shall add  
21 a penalty of five percent of the amount of the tax, but not less than  
22 ten dollars.

23       (5) If the department finds that all or part of the deficiency  
24 resulted from an intent to evade the tax payable under this chapter,  
25 the department shall add a further penalty of fifty percent of the  
26 additional tax found to be due.

27       (6) The aggregate penalties imposed under subsections (2) through  
28 (4) of this section may not exceed twenty-five percent of the tax due,  
29 or twenty dollars, whichever is greater.

30       (7) If the department of revenue finds that the payment by a  
31 taxpayer of a tax is less than that properly due, and the failure of a  
32 taxpayer to pay any tax by the due date was the result of circumstances  
33 beyond the control of the taxpayer, the department of revenue shall  
34 waive or cancel any interest or penalties imposed under this chapter  
35 with respect to the tax. The department of revenue shall prescribe  
36 rules for the waiver or cancellation of interest or penalties imposed  
37 by this chapter.

1       **Sec. 509.** RCW 83.100.080 and 1988 c 64 s 9 are each amended to  
2 read as follows:

3       Upon request of the person who has filed a Washington return, the  
4 department shall issue a release when the tax due under this chapter  
5 has been paid. Upon issuance of a release, all property subject to the  
6 tax shall be free of any claim for the tax by the state.

7       **Sec. 510.** RCW 83.100.090 and 1988 c 64 s 10 are each amended to  
8 read as follows:

9       (1) If upon examination of any return or from other information  
10 obtained by the department it appears that a tax or penalty has been  
11 paid less than that properly due, or that the return is not correct,  
12 the department shall assess against the taxpayer such additional amount  
13 found to be due, or correct the return, and shall add to the amount  
14 found to be due interest at the rate provided in RCW 82.32.050(2).

15       (a) The department shall notify the taxpayer by mail of the  
16 additional amount and the same shall become due and shall be paid  
17 within thirty days from the date of the notice, or within such further  
18 time as the department may provide.

19       (b) The department in its examination of returns under this chapter  
20 shall coordinate its activities with the United States internal revenue  
21 service and shall avoid a duplication of effort whenever possible. The  
22 department shall cooperate with the United States internal revenue  
23 service and provide valuation or other assistance when such assistance  
24 is requested and may be efficiently provided. The department shall  
25 enter into such information sharing agreements with the United States  
26 internal revenue service as are necessary to efficiently implement this  
27 chapter.

28       (2) No assessment or correction of an assessment for additional  
29 taxes due may be made by the department more than three years after the  
30 date the return was due, including extensions, if any, except:

31       (a) Against a taxpayer who has not filed a return as required by  
32 this chapter;

33       (b) Upon a showing of fraud or of misrepresentation of a material  
34 fact by the taxpayer;

35       (c) Where a taxpayer has executed a written waiver of such  
36 limitation; or

37       (d) Where an adjustment in, or final determination of, the amount  
38 of federal tax is made more than three years after the date the return

1 was due, including extensions, if any. No assessment or correction of  
2 assessment shall be made more than three years after the date of the  
3 adjustment in, or final determination of, the amount of federal tax.

4 (3) If the person required to file the federal return files an  
5 amended federal return, that person shall (~~immediately~~), at the time  
6 the amended federal return is filed, file with the department an  
7 amended Washington return with a copy of the amended federal return and  
8 all accompanying documents. If the amended Washington return requires  
9 payment of an additional tax under this chapter, the tax shall be paid  
10 in accordance with RCW 83.100.060 and interest and penalties, if any,  
11 shall be paid in accordance with RCW 83.100.070.

12 (~~(+2)~~) (4) Upon any adjustment in, or final determination of, the  
13 amount of federal tax due, the person required to file the federal  
14 return shall notify the department in writing within sixty days after  
15 the adjustment or final determination. If the adjustment or final  
16 determination requires payment of an additional tax under this chapter,  
17 the tax shall be paid in accordance with RCW 83.100.060 and interest  
18 and penalties, if any, shall be paid in accordance with RCW 83.100.070.

19 NEW SECTION. Sec. 511. A new section is added to chapter 83.100  
20 RCW to read as follows:

21 If the value of a transfer has been determined under this chapter  
22 and the same transfer is examined and valued for federal tax purposes  
23 with the new value becoming fixed under federal law either by agreement  
24 with the taxpayer or through final determination in the federal court,  
25 then the value as fixed under this chapter shall be increased or  
26 decreased to the federal tax value.

27 NEW SECTION. Sec. 512. A new section is added to chapter 83.100  
28 RCW to read as follows:

29 (1) If a person fails or refuses to make a return or to make  
30 available for examination the records required by this chapter, the  
31 department shall proceed, in such manner as it may deem best, to obtain  
32 facts and information on which to base its estimate of the tax. To  
33 this end, the department may examine the books, records, and papers of  
34 the person and may take evidence, on oath, of the person, relating to  
35 the subject of inquiry.

36 (2) As soon as the department procures such facts and information  
37 as it is able to obtain upon which to base the assessment of a tax

1 payable by a person who has failed or refused to make a return, it  
2 shall proceed to determine and assess against the person the tax and  
3 penalties due, but such action may not deprive the person from  
4 appealing the assessment as provided in this chapter. The department  
5 shall add to the assessment the interest and penalties provided in this  
6 chapter. The department shall notify the taxpayer by mail of the total  
7 amount of the tax, penalties, and interest, and the total amount shall  
8 become due and shall be paid within thirty days from the date of the  
9 notice.

10 NEW SECTION. **Sec. 513.** A new section is added to chapter 83.100  
11 RCW to read as follows:

12 (1) A person having paid a tax, original assessment, or corrected  
13 assessment, or having been issued a notice of additional taxes,  
14 correction of a return, delinquent taxes, interest, or penalties  
15 assessed by the department, may petition the department in writing for  
16 a correction of the amount of the assessment or a review of the tax  
17 liability, and a conference for examination and review of the  
18 assessment or tax liability. The petition shall set forth the reasons  
19 why the correction should be granted and the amount of the tax,  
20 interest, or penalties that the petitioner believes is due. The  
21 department shall promptly consider the petition and may grant or deny  
22 it. If denied, the petitioner shall be notified by mail of the denial  
23 forthwith. If a conference is granted, the department shall fix the  
24 time and place for the conference and notify the petitioner by mail.  
25 After the conference, the department may make a determination as may  
26 appear to it to be just and lawful and shall mail a copy of its  
27 determination to the petitioner.

28 (2) A petition for correction of assessment shall be made within  
29 thirty days after the issuance of the original notice of the assessment  
30 amount or within the period covered by an extension of the due date  
31 granted by the department. If no such petition is filed within the  
32 thirty-day period, the assessment covered by the notice shall become  
33 final.

34 (3) A petition for a review of a tax liability that has been paid  
35 may be made any time within the period for payment of refunds.

36 NEW SECTION. **Sec. 514.** A new section is added to chapter 83.100  
37 RCW to read as follows:

1 (1) Any person having paid any tax as required by this chapter and  
2 feeling aggrieved by the amount of the tax may appeal to the superior  
3 court of Thurston county, within the time limitation for a refund  
4 provided in this chapter or, if an application for refund has been made  
5 to the department within that time limitation, then within thirty days  
6 after rejection of the application, whichever time limitation is later.  
7 In the appeal the taxpayer shall set forth the amount of the tax  
8 imposed upon the taxpayer that the taxpayer concedes to be the correct  
9 tax and the reason why the tax should be reduced or abated. The appeal  
10 shall be perfected by serving a copy of the notice of appeal upon the  
11 department within the time specified in this section and by filing the  
12 original thereof with proof of service with the clerk of the superior  
13 court of Thurston county.

14 (2) The trial in the superior court on appeal is de novo and  
15 without the necessity of pleadings other than the notice of appeal.  
16 The burden rests upon the taxpayer to prove that the tax as paid by the  
17 taxpayer is incorrect, either in whole or in part, and to establish the  
18 correct amount of the tax. In the proceeding the taxpayer is deemed  
19 the plaintiff, and the state, the defendant, and both parties are  
20 entitled to subpoena the attendance of witnesses as in other civil  
21 actions and to produce evidence that is competent, relevant, and  
22 material to determine the correct amount of the tax that should be paid  
23 by the taxpayer. Either party may seek appellate review in the same  
24 manner as other civil actions are appealed to the appellate courts.

25 (3) It is not necessary for the taxpayer to protest against the  
26 payment of a tax or to make a demand to have the tax refunded or to  
27 petition the department or the director for a hearing in order to  
28 appeal to the superior court, but no court action or proceeding of any  
29 kind may be maintained by the taxpayer to recover a tax or a part of a  
30 tax paid, except as provided in this section.

31 (4) The provisions of this section do not apply to a tax payment  
32 that has been the subject of an appeal to the board of tax appeals with  
33 respect to which appeal a formal hearing has been elected.

34 **Sec. 515.** RCW 83.100.130 and 1988 c 64 s 12 are each amended to  
35 read as follows:

36 ~~((Whenever the department determines that a person required to file  
37 the federal return has overpaid the tax due under this chapter, the  
38 department shall refund the amount of the overpayment, together with~~

1 ~~interest at the then existing rate under RCW 83.100.070(1). If the~~  
2 ~~application for refund, with supporting documents, is filed within four~~  
3 ~~months after an adjustment or final determination of federal tax~~  
4 ~~liability, the department shall pay interest until the date the refund~~  
5 ~~is mailed. If the application for refund, with supporting documents,~~  
6 ~~is filed after four months after the adjustment or final determination,~~  
7 ~~the department shall pay interest only until the end of the four-month~~  
8 ~~period.)~~)

9 (1) If, upon receipt of an application by a taxpayer for a refund  
10 or for an audit of the taxpayer's return, or upon an examination of the  
11 return of a taxpayer, it is determined by the department that within  
12 the statutory period for assessment of taxes prescribed by RCW  
13 83.100.090 a tax has been paid in excess of that properly due, the  
14 excess amount paid within such period shall be refunded to the  
15 taxpayer. No refund may be made for taxes paid more than three years  
16 prior to the date that the refund application is made or examination of  
17 records is completed, except taxes may be refunded after an adjustment  
18 in, or final determination of, the federal tax liability has been made,  
19 but such refund may not be made for taxes paid more than three years  
20 prior to the date the refund application is made or the adjustment, or  
21 final determination of, the federal tax liability is made.

22 (2) A judgment for which a recovery is granted by a court of  
23 competent jurisdiction, not appealed from, for tax, penalties, and  
24 interest that were paid by the taxpayer, and costs, in a suit by a  
25 taxpayer shall be paid in like manner, upon the filing with the  
26 department of a certified copy of the order or judgment of the court.

27 (3) Interest at the rate provided in RCW 82.32.060 shall be allowed  
28 by the department and by a court on the amount of a refund or recovery  
29 allowed to a taxpayer for taxes, penalties, or interest paid by the  
30 taxpayer.

31 **Sec. 516.** RCW 83.100.150 and 1988 c 64 s 14 are each amended to  
32 read as follows:

33 ~~((1))~~ The department may collect the ~~((estate tax))~~ taxes imposed  
34 under ~~((RCW 83.100.030 and 83.100.040))~~ this chapter, including  
35 interest and penalties, and shall represent this state in all matters  
36 pertaining to the same, either before courts or in any other manner.  
37 ~~((At any time after the Washington return is due, the department may~~  
38 ~~file its findings regarding the amount of the tax, the federal credit,~~

1 the person required to file the federal return, and all persons having  
2 an interest in property subject to the tax with the clerk of the  
3 superior court in the matter of the estate of the decedent or, if no  
4 probate or administration proceedings have been commenced in any court  
5 of this state, of the superior court for the county in which the  
6 decedent was a resident, if the resident was a domiciliary, or, if the  
7 decedent was a nondomiciliary, of any superior court which has  
8 jurisdiction over the property. — Such a court first acquiring  
9 jurisdiction shall retain jurisdiction to the exclusion of every other  
10 court.

11 (2) The department may collect the generation skipping transfer tax  
12 under RCW 83.100.045, including interest and penalties, and shall  
13 represent this state in all matters pertaining to the same, either  
14 before courts or in any other manner. At any time after the Washington  
15 return is due, the department may file its findings regarding the  
16 amount of the tax, the federal credit, the person required to file the  
17 federal return, and all persons having an interest in property subject  
18 to the tax with the clerk of the superior court in the matter of the  
19 trust or the estate of the decedent, if any, or, if no trust, probate  
20 or administration proceedings have been commenced in any court of this  
21 state, of any superior court which has jurisdiction over the property.  
22 Such a court first acquiring jurisdiction shall retain jurisdiction to  
23 the exclusion of every other court.)) The provisions, methods, and  
24 processes provided in chapter 82.32 RCW relating to the collection of  
25 taxes apply to the collection of taxes imposed by this chapter.

26 **Sec. 517.** RCW 82.03.190 and 1989 c 378 s 5 are each amended to  
27 read as follows:

28 Any person having received notice of a denial of a petition or a  
29 notice of determination made under RCW 82.32.160, 82.32.170, 82.34.110,  
30 ((or)) 82.49.060, or section 513 of this act may appeal, within thirty  
31 days after the mailing of the notice of such denial or determination,  
32 to the board of tax appeals. In the notice of appeal the taxpayer  
33 shall set forth the amount of the tax which the taxpayer contends  
34 should be reduced or refunded and the reasons for such reduction or  
35 refund, in accordance with rules of practice and procedure prescribed  
36 by the board. A copy of the notice of appeal shall be provided to the  
37 department within the time specified in the rules of practice and  
38 procedure prescribed by the board. However, if the notice of appeal

1 relates to an application made to the department under chapter 82.34  
2 RCW, the taxpayer shall set forth the amount to which the taxpayer  
3 claims the credit or exemption should apply, and the grounds for such  
4 contention, in accordance with rules of practice and procedure  
5 prescribed by the board. If the taxpayer intends that the hearing  
6 before the board be held pursuant to the administrative procedure act  
7 (chapter 34.05 RCW), the notice of appeal shall also so state. In the  
8 event that the notice of appeal does not so state, the department may,  
9 within thirty days from the date of its receipt of the notice of  
10 appeal, file with the board notice of its intention that the hearing be  
11 held pursuant to the administrative procedure act.

12 NEW SECTION. **Sec. 518.** The following acts or parts of acts are  
13 each repealed:

- 14 (1) RCW 83.100.160 and 1988 c 64 s 15;
- 15 (2) RCW 83.100.170 and 1988 c 64 s 16;
- 16 (3) RCW 83.100.180 and 1988 c 64 s 17; and
- 17 (4) RCW 83.100.190 and 1988 c 64 s 18.

18 NEW SECTION. **Sec. 519.** Sections 501 through 518, chapter . . . ,  
19 Laws of 1993 (sections 501 through 518 of this act) shall apply to all  
20 returns required to be filed on or after the effective date of sections  
21 501 through 518, chapter . . . , Laws of 1993 (sections 501 through 518  
22 of this act), including amended or adjusted returns, regardless, in the  
23 case of a decedent, if the date of death of the decedent occurred prior  
24 to the effective date of sections 501 through 518, chapter . . . , Laws  
25 of 1993 (sections 501 through 518 of this act).

26 (End of part)



1 prepayments shall be paid to the state treasurer through the  
2 commissioner's office by the due dates and in the following amounts:

3 (a) On or before June 15, forty-five percent;

4 (b) On or before September 15, twenty-five percent;

5 (c) On or before December 15, twenty-five percent.

6 For good cause demonstrated in writing, the commissioner may  
7 approve an amount smaller than the preceding calendar year's tax  
8 obligation as recomputed for calculating the health maintenance  
9 organization's prepayment obligations for the current tax year.

10 (4) One hundred percent of the moneys collected under this section  
11 shall be deposited in the general fund.

12 NEW SECTION. **Sec. 603.** A new section is added to chapter 48.14  
13 RCW to read as follows:

14 (1) Each health care service contractor, as defined in RCW  
15 48.44.010, shall pay a tax on or before the first day of March of each  
16 year to the state treasurer through the insurance commissioner's office  
17 on amounts received or collected by the health care service contractor  
18 during the preceding calendar year as copayments and prepayments for  
19 health care services.

20 (2) The amount of the tax shall be equal to the total amount of all  
21 copayments and prepayments for health care services received by the  
22 health care service contractor during the calendar year multiplied by  
23 the rate of two percent. The tax on prepayments for health care  
24 services established by this section shall not be applied to amounts  
25 received or collected by a health care service contractor from the  
26 United States or any instrumentality of the United States as  
27 prepayments for comprehensive health care services provided under Title  
28 XVIII, medicare, of the social security act or the federal employees  
29 benefits plan.

30 (3) Health care service contractors shall prepay their tax  
31 liability. The minimum amount of the prepayments shall be percentages  
32 of the health care service contractor's tax obligation for the  
33 preceding calendar year recomputed using the rate in effect for the  
34 current year. For the prepayment of taxes due during calendar year  
35 1994, the minimum amount of the prepayments shall be percentages of the  
36 health care service contractor's tax obligation that would have been  
37 due had the tax been in effect during calendar year 1993. The tax

1 prepayments shall be paid to the state treasurer through the  
2 commissioner's office by the due dates and in the following amounts:

3 (a) On or before June 15, forty-five percent;

4 (b) On or before September 15, twenty-five percent;

5 (c) On or before December 15, twenty-five percent.

6 For good cause demonstrated in writing, the commissioner may  
7 approve an amount smaller than the preceding calendar year's tax  
8 obligation as recomputed for calculating the health care service  
9 contractor's prepayment obligations for the current tax year.

10 (4) One hundred percent of the moneys collected under this section  
11 shall be deposited in the general fund.

12 (End of part)

1 PART VII

2 INSURANCE PREMIUMS TAX CREDIT REPEAL

3 Sec. 701. RCW 48.32A.090 and 1990 c 51 s 6 are each amended to  
4 read as follows:

5 (1) The association shall issue to each insurer paying an  
6 assessment under this chapter certificates of contribution, in  
7 appropriate form and terms as prescribed or approved by the  
8 commissioner, for the amounts so paid into the respective funds. All  
9 outstanding certificates against a particular fund shall be of equal  
10 dignity and priority without reference to amounts or dates of issue.

11 ~~(2) ((An outstanding certificate of contribution shall be shown by~~  
12 ~~the insurer in its financial statements as an admitted asset for such~~  
13 ~~amount and period of time as the commissioner may approve: PROVIDED,~~  
14 ~~That unless a longer period has been allowed by the commissioner the~~  
15 ~~insurer shall in any event at its option have the right to so show a~~  
16 ~~certificate of contribution as an admitted asset at percentages of~~  
17 ~~original face amount for calendar years as follows:~~

- 18 ~~100% for the calendar year of issuance;~~  
19 ~~80% for the first calendar year after the year of issuance;~~  
20 ~~60% for the second calendar year after the year of issuance;~~  
21 ~~40% for the third calendar year after the year of issuance;~~  
22 ~~20% for the fourth calendar year after the year of issuance; and~~  
23 ~~0% for the fifth and subsequent calendar years after the year of~~  
24 ~~issuance.~~

25 Notwithstanding the foregoing, if the value of a certificate of  
26 contribution is or becomes less than one thousand dollars, the entire  
27 amount may be written off by the insurer in that year.

28 ~~(3) The insurer shall offset the amount written off by it in a~~  
29 ~~calendar year under subsection (2) of this section against its premium~~  
30 ~~tax liability to this state accrued with respect to business transacted~~  
31 ~~in such year.~~

32 ~~(4)) Any sums recovered by the association representing sums which~~  
33 ~~have theretofore been written off by contributing insurers and offset~~  
34 ~~against premium taxes ((as provided in subsection (3) of this~~  
35 ~~section,)) before the effective date of this section shall be paid by~~

1 the association to the commissioner and (~~by him~~) then deposited with  
2 the state treasurer for credit to the general fund of the state of  
3 Washington.

4 (~~(5)~~) (3) No distribution to stockholders, if any, of a  
5 liquidating insurer shall be made unless and until the total amount of  
6 assessments levied by the association with respect to such insurer have  
7 been fully recovered by the association.

8 NEW SECTION. Sec. 702. RCW 48.32.050 and 1975-'76 2nd ex.s. c 109  
9 s 5 & 1971 ex.s. c 265 s 5 are each repealed.

10 (End of part)

1 PART VIII

2 RESALE CERTIFICATES

3 Sec. 801. RCW 82.04.470 and 1983 2nd ex.s. c 3 s 29 are each  
4 amended to read as follows:

5 (1) Unless a seller has taken from the purchaser a resale  
6 certificate (~~(signed by, and bearing the name and address and~~  
7 ~~registration number of the purchaser to the effect that the property or~~  
8 ~~service was purchased for resale, or unless the nature of the~~  
9 ~~transaction is clearly shown as a sale at wholesale by the books and~~  
10 ~~records of the taxpayer in such other manner as the department of~~  
11 ~~revenue shall by regulation provide)), the burden of proving that a  
12 sale of tangible personal property, or of telephone service as defined  
13 in RCW 82.04.065, was not a sale at retail shall be upon the person who  
14 made it.~~

15 (2) A resale certificate shall be presented to the seller either  
16 at the time of sale or be on file with the seller before a purchase can  
17 be made without payment of sales tax. If the seller does not have a  
18 resale certificate on file, the seller is liable for the tax unless the  
19 seller obtains a resale certificate from the buyer.

20 (3) Resale certificates shall be valid for a period of four years  
21 from the date the certificate is provided to the seller.

22 (4) The department may provide by rule for suggested forms for  
23 resale certificates and the other documents containing the information  
24 that will be accepted as resale certificates. The department shall  
25 provide by rule the categories of items that must be specified on  
26 resale certificates and the business classifications that may use a  
27 blanket resale certificate.

28 (5) As used in this section, "resale certificate" means a document  
29 provided by a buyer to a seller at the time of sale stating that the  
30 purchase is for resale in the regular course of business, or that the  
31 buyer is exempt from retail sales tax, and containing the following  
32 information:

33 (a) The name and address of the buyer;

34 (b) The uniform business identifier or revenue registration number  
35 of the buyer;

36 (c) The type of business engaged in;

1       (d) The categories of items to be purchased for resale or that are  
2 exempt, unless the buyer is in a business classification that may  
3 present a blanket resale certificate as provided by the department by  
4 rule;

5       (e) The date on which the certificate was provided;

6       (f) A statement that the items purchased either: (i) Are purchased  
7 for resale in the regular course of business; or (ii) are exempt from  
8 tax pursuant to statute;

9       (g) A statement that the buyer acknowledges that misuse of the  
10 certificate subjects him or her to a penalty of fifty percent of the  
11 tax due, in addition to the tax, interest, and any other penalties  
12 imposed;

13       (h) The name of the individual authorized to sign the certificate,  
14 printed in a legible fashion;

15       (i) The signature of the authorized individual; and

16       (j) The name of the seller.

17       NEW SECTION. Sec. 802. A new section is added to chapter 82.08  
18 RCW to read as follows:

19       If a buyer normally is engaged in both consuming and reselling  
20 certain types of articles of tangible personal property and is not able  
21 to determine at the time of purchase whether the particular property  
22 acquired will be consumed or resold, the buyer may use a resale  
23 certificate for the entire purchase if the buyer principally resells  
24 the articles according to the general nature of the buyer's business.  
25 The buyer shall account for the value of any articles purchased with a  
26 resale certificate that are used by the buyer and remit the sales tax  
27 on the articles to the department.

28       A buyer who pays a tax on all purchases and subsequently resells an  
29 article at retail, without intervening use by the buyer, shall collect  
30 the tax from the purchaser as otherwise provided by law and is entitled  
31 to a deduction on the buyer's tax return equal to the cost to the buyer  
32 of the property resold. The deduction is allowed only if the taxpayer  
33 keeps and preserves records that show the names of the persons from  
34 whom the articles were purchased, the date of the purchase, the type of  
35 articles, the amount of the purchase, and the tax that was paid. The  
36 department shall provide by rule for the refund or credit of retail  
37 sales tax paid by a buyer for purchases that are later sold at  
38 wholesale without intervening use by the buyer.

1        NEW SECTION.    **Sec. 803.**    A new section is added to chapter 82.32  
2    RCW to read as follows:

3        Any person who uses a resale certificate to purchase items without  
4    payment of sales tax and who is not entitled to use the certificate for  
5    the purchase shall be assessed a penalty of fifty percent of the tax  
6    due, in addition to all other taxes, penalties, and interest due, on  
7    the improperly purchased item.    The department may waive the penalty  
8    imposed under this section if it finds that the use of the certificate  
9    was due to circumstances beyond the taxpayer's control or if the  
10   certificate was used for purchases for dual purposes.    The department  
11   shall define by rule what circumstances are considered to be beyond the  
12   taxpayer's control.

13        **Sec. 804.**    RCW 82.08.050 and 1992 c 206 s 2 are each amended to  
14    read as follows:

15        The tax hereby imposed shall be paid by the buyer to the seller,  
16    and each seller shall collect from the buyer the full amount of the tax  
17    payable in respect to each taxable sale in accordance with the schedule  
18    of collections adopted by the department pursuant to the provisions of  
19    RCW 82.08.060.    The tax required by this chapter, to be collected by  
20    the seller, shall be deemed to be held in trust by the seller until  
21    paid to the department, and any seller who appropriates or converts the  
22    tax collected to his or her own use or to any use other than the  
23    payment of the tax to the extent that the money required to be  
24    collected is not available for payment on the due date as prescribed in  
25    this chapter shall be guilty of a gross misdemeanor.

26        In case any seller fails to collect the tax herein imposed or  
27    having collected the tax, fails to pay it to the department in the  
28    manner prescribed by this chapter, whether such failure is the result  
29    of his or her own acts or the result of acts or conditions beyond his  
30    or her control, he or she shall, nevertheless, be personally liable to  
31    the state for the amount of the tax, unless the seller has taken from  
32    the buyer in good faith a properly executed retail certificate as  
33    provided in RCW 82.04.470.

34        The amount of tax, until paid by the buyer to the seller or to the  
35    department, shall constitute a debt from the buyer to the seller and  
36    any seller who fails or refuses to collect the tax as required with  
37    intent to violate the provisions of this chapter or to gain some  
38    advantage or benefit, either direct or indirect, and any buyer who

1 refuses to pay any tax due under this chapter shall be guilty of a  
2 misdemeanor. The tax required by this chapter to be collected by the  
3 seller shall be stated separately from the selling price in any sales  
4 invoice or other instrument of sale. On all retail sales through  
5 vending machines, the tax need not be stated separately from the  
6 selling price or collected separately from the buyer. For purposes of  
7 determining the tax due from the buyer to the seller and from the  
8 seller to the department it shall be conclusively presumed that the  
9 selling price quoted in any price list, sales document, contract or  
10 other agreement between the parties does not include the tax imposed by  
11 this chapter, but if the seller advertises the price as including the  
12 tax or that the seller is paying the tax, the advertised price shall  
13 not be considered the selling price.

14 Where a buyer has failed to pay to the seller the tax imposed by  
15 this chapter and the seller has not paid the amount of the tax to the  
16 department, the department may, in its discretion, proceed directly  
17 against the buyer for collection of the tax, in which case a penalty of  
18 ten percent may be added to the amount of the tax for failure of the  
19 buyer to pay the same to the seller, regardless of when the tax may be  
20 collected by the department; and all of the provisions of chapter 82.32  
21 RCW, including those relative to interest and penalties, shall apply in  
22 addition; and, for the sole purpose of applying the various provisions  
23 of chapter 82.32 RCW, the twenty-fifth day of the month following the  
24 tax period in which the purchase was made shall be considered as the  
25 due date of the tax.

26

(End of part)

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**PART IX**  
**CONTRIBUTIONS IN AID OF CONSTRUCTION**

NEW SECTION. **Sec. 901.** RCW 82.04.417 and 1969 ex.s. c 156 s 1 are  
each repealed.

(End of part)

1 PART X

2 STATE TRADE AND CONVENTION CENTER

3 Sec. 1001. RCW 67.40.090 and 1991 c 2 s 3 are each amended to read  
4 as follows:

5 (1) (~~Commencing April 1, 1982,~~) There is imposed, and the  
6 department of revenue shall collect, in King county a special excise  
7 tax on the sale of or charge made for the furnishing of lodging by a  
8 hotel, rooming house, tourist court, motel, or trailer camp, and the  
9 granting of any similar license to use real property, as distinguished  
10 from the renting or leasing of real property, except that no such tax  
11 may be levied on any premises having fewer than sixty lodging units.  
12 It shall be presumed that the occupancy of real property for a  
13 continuous period of one month or more constitutes rental or lease of  
14 real property and not a mere license to use or enjoy the same. The  
15 legislature on behalf of the state pledges to maintain and continue  
16 this tax until the bonds authorized by this chapter are fully redeemed,  
17 both principal and interest.

18 (2) The rate of the tax (~~imposed under this section~~) shall be as  
19 (~~provided in this subsection.~~) follows:

20 (a) (~~From April 1, 1982, through December 31, 1982, inclusive, the~~  
21 ~~rate shall be three percent in the city of Seattle and two percent in~~  
22 ~~King county outside the city of Seattle.~~

23 (b) ~~From January 1, 1983, through June 30, 1988, inclusive, the~~  
24 ~~rate shall be five percent in the city of Seattle and two percent in~~  
25 ~~King county outside the city of Seattle.~~

26 (c) ~~From July 1, 1988, through December 31, 1992, inclusive, the~~  
27 ~~rate shall be six percent in the city of Seattle and two and four-~~  
28 ~~tenths percent in King county outside the city of Seattle.~~

29 (d) ~~From January 1, 1993,~~) Until the change date, the rate shall  
30 be seven percent in the city of Seattle and two and eight-tenths  
31 percent in King county outside the city of Seattle.

32 ((~~e~~)) (b) On and after the change date, the rate shall be six  
33 percent in the city of Seattle and two and four-tenths percent in King  
34 county outside the city of Seattle.

1       ~~((f))~~ (c) As used in this section, "change date" means the  
2 October 1st next occurring after certification occurs under ~~((g))~~ (d)  
3 of this subsection.

4       ~~((g))~~ (d) On August 1st of 1998 and of each year thereafter until  
5 certification occurs under this subsection, the state treasurer shall  
6 determine whether seventy-one and forty-three one-hundredths percent of  
7 the revenues actually collected and deposited with the state treasurer  
8 for the tax imposed under this section during the twelve months ending  
9 June 30th of that year, excluding penalties and interest, exceeds the  
10 amount actually paid in debt service during the same period for bonds  
11 issued under RCW 67.40.030 by at least two million dollars. If so, the  
12 state treasurer shall so certify to the department of revenue.

13       (3) An additional tax is imposed for the period July 1, 1993,  
14 through June 30, 1995, equal to the tax payable under subsection (2) of  
15 this section multiplied by twenty percent.

16       (4) The proceeds of the special excise tax shall be deposited as  
17 ~~((provided in this subsection.))~~ follows:

18       (a) ~~((Through June 30, 1988, inclusive, all proceeds shall be~~  
19 ~~deposited in the state convention and trade center account.~~

20       (b) ~~From July 1, 1988, through December 31, 1992, inclusive,~~  
21 ~~eighty-three and thirty-three one-hundredths percent of the proceeds~~  
22 ~~shall be deposited in the state convention and trade center account.~~  
23 ~~The remainder shall be deposited in the state convention and trade~~  
24 ~~center operations account.~~

25       ~~(c) From January 1, 1993,~~) Until the change date, eighty-five and  
26 seventy-one-hundredths percent of the proceeds of the tax imposed under  
27 subsection (2) of this section shall be deposited in the state  
28 convention and trade center account. The remainder of the tax imposed  
29 under subsection (2) of this section shall be deposited in the state  
30 convention and trade center operations account.

31       ~~((d))~~ (b) On and after the change date, eighty-three and thirty-  
32 three one-hundredths percent of the proceeds of the tax imposed under  
33 subsection (2) of this section shall be deposited in the state  
34 convention and trade center account. The remainder of the tax imposed  
35 under subsection (2) of this section shall be deposited in the state  
36 convention and trade center operations account.

37       (c) One hundred percent of the proceeds of the additional tax  
38 imposed under subsection (3) of this section shall be deposited in the  
39 state convention and trade center operations account.



