
HOUSE BILL 1302

State of Washington

55th Legislature

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By Representatives Pennington, Kessler, Carrell, Boldt, Thompson, Sheldon, Cairnes, Lambert, B. Thomas, Mitchell, Chandler, Talcott, Cooke, Schoesler, Robertson, Huff, Mielke, Lisk, Delvin, Wensman, Mulliken, Backlund and L. Thomas

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1 AN ACT Relating to intangible personal property; amending RCW
2 84.36.070, 84.40.030, and 84.48.080; and creating new sections.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

5 (a) The assessment of intangible personal property in many
6 instances would be inequitable because it may effectively double tax
7 the same property;

8 (b) Some forms of intangible personal property may not be readily
9 identifiable in a uniform manner and, due to the voluntary compliance
10 nature of the personal property tax system, may escape detection
11 resulting in an inconsistent application among taxpayers who possess
12 this property;

13 (c) It can be difficult to determine a situs of or value for
14 intangible personal property. These difficulties can create
15 significant costs in both financial and human resources to assessing
16 authorities and taxpayers;

17 (d) It is in the best interest of all taxpayers and taxing
18 authorities to clarify the proper treatment of intangible personal

1 property in the property tax system and to ease the administrative
2 burdens and costs related to intangible personal property; and

3 (e) Uncertainty about the assessment of intangible personal
4 property could be detrimental to economic development in the state of
5 Washington.

6 (2) It is the intent of the legislature that:

7 (a) Intangible personal property be exempt from property taxation;

8 (b) Assessing officials continue their practice of reflecting
9 characteristics and attributes of taxable real and tangible personal
10 property in the value of the property;

11 (c) For the purposes of determining the true and fair value of real
12 and tangible personal property under Title 84 RCW, the presence of
13 existing intangible assets shall be considered in determining the
14 highest and best use of taxable property. "Highest and best use" under
15 RCW 84.36.070(1) means the functional use for which the taxable
16 property is employed without regard to the specific identity of the
17 user;

18 (d) This act is not intended to incorporate nor is it based on any
19 other state's statutory or case law;

20 (e) Nothing in this act be construed as precluding the use of, or
21 permitting a departure from, generally accepted appraisal practices and
22 the appropriate application thereof in the valuation of real and
23 tangible personal property. Any assessment practice or result that was
24 unlawful or incorrectly applied immediately before the effective date
25 of this act shall not be made lawful or correct by this act.

26 **Sec. 2.** RCW 84.36.070 and 1974 ex.s. c 118 s 1 are each amended to
27 read as follows:

28 ~~((The following))~~ (1)(a) Intangible personal property shall be
29 exempt from ((ad valorem)) property taxation((+)). However, for the
30 purposes of determining the true and fair value of real and tangible
31 personal property under this title, the presence of existing intangible
32 assets shall be considered in determining the highest and best use of
33 taxable property.

34 (b) For the purposes of (a) of this subsection, "highest and best
35 use" means the functional use for which the taxable property is
36 employed without regard to the specific identity of the user. However,
37 nothing in this subsection (1)(b) requires that taxable property be
38 valued at current use except as provided otherwise in this title.

1 (2) "Intangible personal property" means:

2 (a) All moneys and credits including mortgages, notes, accounts,
3 certificates of deposit, tax certificates, judgments, state, county and
4 municipal bonds and warrants and bonds and warrants of other taxing
5 districts, bonds of the United States and of foreign countries or
6 political subdivisions thereof and the bonds, stocks or shares of
7 private corporations((~~7~~));

8 (b) Private nongovernmental personal service contracts or private
9 nongovernmental athletic or sports franchises or private
10 nongovernmental athletic or sports agreements provided that such
11 contracts, franchises or agreements do not pertain to the use or
12 possession of tangible personal or real property or to any interest in
13 tangible personal or real property; and

14 (c) Intangible assets including, but not limited to, trademarks,
15 trade names, brand names, patents, copyrights, trade secrets, franchise
16 agreements, licenses, permits, core deposits of financial institutions,
17 noncompete agreements, clientele, customer lists, patient lists,
18 favorable contracts, favorable financing agreements, reputation,
19 exceptional management, prestige, good name, or integrity of a
20 business.

21 **Sec. 3.** RCW 84.40.030 and 1994 c 124 s 20 are each amended to read
22 as follows:

23 (1) All property shall be valued at one hundred percent of its true
24 and fair value in money and assessed on the same basis unless
25 specifically provided otherwise by law.

26 (2) Taxable leasehold estates shall be valued at such price as they
27 would bring at a fair, voluntary sale for cash without any deductions
28 for any indebtedness owed including rentals to be paid.

29 (3) For the purposes of determining the true and fair value of
30 taxable property under this title:

31 (a) The exemption provided in RCW 84.36.070(1)(a) is not intended
32 to prohibit the consideration of income generated by or market
33 information related to the property being appraised, as provided in RCW
34 84.12.300 and 84.16.050 and subsection (4) of this section.

35 (b) Characteristics or attributes of property such as zoning,
36 location, view, geographic features, easements, covenants, proximity to
37 raw materials, condition of surrounding property, proximity to markets,

1 and the availability of a skilled work force shall be reflected in the
2 value of the property.

3 (4) The true and fair value of real property for taxation purposes
4 (including property upon which there is a coal or other mine, or stone
5 or other quarry) shall be based upon the following criteria:

6 (~~(1)~~) (a) Any sales of the property being appraised or similar
7 properties with respect to sales made within the past five years. The
8 appraisal shall be consistent with the comprehensive land use plan,
9 development regulations under chapter 36.70A RCW, zoning, and any other
10 governmental policies or practices in effect at the time of appraisal
11 that affect the use of property, as well as physical and environmental
12 influences. The appraisal shall also take into account: (~~(a)~~) (i)
13 In the use of sales by real estate contract as similar sales, the
14 extent, if any, to which the stated selling price has been increased by
15 reason of the down payment, interest rate, or other financing terms;
16 and (~~(b)~~) (ii) the extent to which the sale of a similar property
17 actually represents the general effective market demand for property of
18 such type, in the geographical area in which such property is located.
19 Sales involving deed releases or similar seller-developer financing
20 arrangements shall not be used as sales of similar property.

21 (~~(2)~~) (b) In addition to sales as defined in (a) of this
22 subsection (~~(1)~~), consideration may be given to cost, cost less
23 depreciation, reconstruction cost less depreciation, or capitalization
24 of income that would be derived from prudent use of the property. In
25 the case of property of a complex nature, or being used under terms of
26 a franchise from a public agency, or operating as a public utility, or
27 property not having a record of sale within five years and not having
28 a significant number of sales of similar property in the general area,
29 the provisions of this subsection (~~(2)~~) (4)(b) shall be the dominant
30 factors in valuation. When provisions of this subsection (~~(2)~~)
31 (4)(b) are relied upon for establishing values the property owner shall
32 be advised upon request of the factors used in arriving at such value.

33 (~~(3)~~) (c) In valuing any tract or parcel of real property, the
34 value of the land, exclusive of structures thereon shall be determined;
35 also the value of structures thereon, but the valuation shall not
36 exceed the value of the total property as it exists. In valuing
37 agricultural land, growing crops shall be excluded.

1 **Sec. 4.** RCW 84.48.080 and 1995 2nd sp.s. c 13 s 3 are each amended
2 to read as follows:

3 (1) Annually during the months of September and October, the
4 department of revenue shall examine and compare the returns of the
5 assessment of the property in the several counties of the state, and
6 the assessment of the property of railroad and other companies assessed
7 by the department, and proceed to equalize the same, so that each
8 county in the state shall pay its due and just proportion of the taxes
9 for state purposes for such assessment year, according to the ratio the
10 valuation of the property in each county bears to the total valuation
11 of all property in the state.

12 First. The department shall classify all property, real and
13 personal, and shall raise and lower the valuation of any class of
14 property in any county to a value that shall be equal, so far as
15 possible, to the true and fair value of such class as of January 1st of
16 the current year for the purpose of ascertaining the just amount of tax
17 due from each county for state purposes. In equalizing personal
18 property as of January 1st of the current year, the department shall
19 use the assessment level of the preceding year. Such classification
20 may be on the basis of types of property, geographical areas, or both.
21 For purposes of this section, for each county that has not provided the
22 department with an assessment return by December 1st, the department
23 shall proceed, using facts and information and in a manner it deems
24 appropriate, to estimate the value of each class of property in the
25 county.

26 Second. The department shall keep a full record of its proceedings
27 and the same shall be published annually by the department.

28 (2) The department shall levy the state taxes authorized by law.
29 The amount levied in any one year for general state purposes shall not
30 exceed the lawful dollar rate on the dollar of the assessed value of
31 the property of the entire state, which assessed value shall be one
32 hundred percent of the true and fair value of such property in money.
33 The department shall apportion the amount of tax for state purposes
34 levied by the department, among the several counties, in proportion to
35 the valuation of the taxable property of the county for the year as
36 equalized by the department: PROVIDED, That for purposes of this
37 apportionment, the department shall recompute the previous year's levy
38 and the apportionment thereof to correct for changes and errors in
39 taxable values reported to the department after October 1 of the

1 preceding year and shall adjust the apportioned amount of the current
2 year's state levy for each county by the difference between the
3 apportioned amounts established by the original and revised levy
4 computations for the previous year. For purposes of this section,
5 changes in taxable values mean a final adjustment made by a county
6 board of equalization, the state board of tax appeals, or a court of
7 competent jurisdiction and shall include additions of omitted property,
8 other additions or deletions from the assessment or tax rolls, any
9 assessment return provided by a county to the department subsequent to
10 December 1st, or a change in the indicated ratio of a county. Errors
11 in taxable values mean errors corrected by a final reviewing body.

12 In addition to computing a levy under this subsection that is
13 reduced under RCW 84.55.012, the department shall compute a
14 hypothetical levy without regard to the reduction under RCW 84.55.012.
15 This hypothetical levy shall also be apportioned among the several
16 counties in proportion to the valuation of the taxable property of the
17 county for the year, as equalized by the department, in the same manner
18 as the actual levy and shall be used by the county assessors for the
19 purpose of recomputing and establishing a consolidated levy under RCW
20 84.52.010.

21 (3) The department shall have authority to adopt rules and
22 regulations to enforce obedience to its orders in all matters in
23 relation to the returns of county assessments, the equalization of
24 values, and the apportionment of the state levy by the department.

25 (4) After the completion of the duties prescribed in this section,
26 the director of the department shall certify the record of the
27 proceedings of the department under this section, the tax levies made
28 for state purposes and the apportionment thereof among the counties,
29 and the certification shall be available for public inspection.

30 (5) In equalizing personal property as of January 1, 1997, the
31 department shall treat intangible personal property in the same manner
32 as intangible personal property is to be treated after the effective
33 date of this act.

34 NEW SECTION. Sec. 5. This act shall not be construed to amend or
35 modify any existing statute or rule relating to the treatment of
36 computer software, retained rights in computer software, and golden and
37 master copies of computer software for property tax purposes.

1 NEW SECTION. **Sec. 6.** Nothing in this act is intended to
2 incorporate and nothing in this act is based on any other state's
3 statutory or case law.

4 NEW SECTION. **Sec. 7.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 8.** This act shall be effective for taxes levied
9 for collection in 1998 and thereafter.

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