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HOUSE BILL 1341

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Thompson, Dunshee, B. Thomas and Wensman; by request of Department of Revenue

Read first time 01/22/97. Referred to Committee on Finance.

1 AN ACT Relating to technical corrections for tax provisions;  
2 amending RCW 82.01.070, 82.01.080, 82.32.080, 82.32.180, 82.60.040,  
3 84.36.470, 84.36.800, 84.36.805, and 84.36.810; decodifying RCW  
4 82.04.435; repealing RCW 82.04.444 and 82.04.445; and providing an  
5 expiration date.

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

7 **Sec. 1.** RCW 82.01.070 and 1982 c 128 s 1 are each amended to read  
8 as follows:

9 The director shall have charge and general supervision of the  
10 department of revenue. ((He)) The director shall appoint an assistant  
11 director for administration, hereinafter in chapter 26, Laws of 1967  
12 ex. sess. referred to as the assistant director, and subject to the  
13 provisions of chapter 41.06 RCW may appoint and employ such clerical,  
14 technical and other personnel as may be necessary to carry out the  
15 powers and duties of the department. The director may also enter into  
16 personal service contracts with out-of-state individuals or business  
17 entities for the performance of auditing services outside the state of  
18 Washington when normal efforts to recruit classified employees are  
19 unsuccessful. The director may agree to pay to the department's

1 employees or contractors who reside out of state such amounts in  
2 addition to their ordinary rate of compensation as are necessary to  
3 defray the extra costs of facilities, living, and other costs  
4 reasonably related to the out-of-state services, subject to legislative  
5 appropriation for those purposes. The special allowances shall be in  
6 such amounts or at such rates as are approved by the office of  
7 financial management. This section does not apply to audit functions  
8 performed in states contiguous to the state of Washington.

9       **Sec. 2.** RCW 82.01.080 and 1967 ex.s. c 26 s 5 are each amended to  
10 read as follows:

11       The director may delegate any power or duty vested in or  
12 transferred to ~~((him))~~ the director by law, or executive order, to the  
13 assistant director or to any of the director's subordinates; but the  
14 director shall be responsible for the official acts of the officers and  
15 employees of the department.

16       **Sec. 3.** RCW 82.32.080 and 1990 c 69 s 2 are each amended to read  
17 as follows:

18       Payment of the tax may be made by uncertified check under such  
19 regulations as the department shall prescribe, but, if a check so  
20 received is not paid by the bank on which it is drawn, the taxpayer, by  
21 whom such check is tendered, shall remain liable for payment of the tax  
22 and for all legal penalties, the same as if such check had not been  
23 tendered.

24       Payment of the tax ~~((is to))~~ shall be made by electronic funds  
25 transfer, as defined in RCW 82.32.085, if the amount of the tax due in  
26 a calendar year is ~~((two hundred forty))~~ one million eight hundred  
27 thousand dollars or more~~((, provided that until January 1, 1992,~~  
28 ~~electronic funds transfer shall be required only if the tax due is one~~  
29 ~~million eight hundred thousand dollars or more. After January 1,~~  
30 ~~1992,))~~. The department may by rule provide for tax thresholds between  
31 two hundred forty thousand dollars and one million eight hundred  
32 thousand dollars for mandatory use of electronic funds transfer. All  
33 taxes administered by this chapter are subject to this requirement  
34 except the taxes authorized by chapters 82.14A, 82.14B, 82.24, 82.27,  
35 82.29A, and 84.33 RCW. It is the intent of this section to require  
36 electronic funds transfer for those taxes reported on the department's  
37 combined excise tax return or any successor return.

1 A return or remittance which is transmitted to the department by  
2 United States mail shall be deemed filed or received on the date shown  
3 by the post office cancellation mark stamped upon the envelope  
4 containing it, except as otherwise provided in this chapter.

5 The department, for good cause shown, may extend the time for  
6 making and filing any return, and may grant such reasonable additional  
7 time within which to make and file returns as it may deem proper, but  
8 any permanent extension granting the taxpayer a reporting date without  
9 penalty more than ten days beyond the due date, and any extension in  
10 excess of thirty days shall be conditional on deposit with the  
11 department of an amount to be determined by the department which shall  
12 be approximately equal to the estimated tax liability for the reporting  
13 period or periods for which the extension is granted. In the case of  
14 a permanent extension or a temporary extension of more than thirty days  
15 the deposit shall be deposited within the state treasury with other tax  
16 funds and a credit recorded to the taxpayer's account which may be  
17 applied to taxpayer's liability upon cancellation of the permanent  
18 extension or upon reporting of the tax liability where an extension of  
19 more than thirty days has been granted.

20 The department shall review the requirement for deposit at least  
21 annually and may require a change in the amount of the deposit required  
22 when it believes that such amount does not approximate the tax  
23 liability for the reporting period or periods for which the extension  
24 is granted.

25 The department shall keep full and accurate records of all funds  
26 received and disbursed by it. Subject to the provisions of RCW  
27 82.32.105 and 82.32.350, the department shall apply the payment of the  
28 taxpayer first against penalties and interest, and then upon the tax,  
29 without regard to any direction of the taxpayer.

30 The department may refuse to accept any return which is not  
31 accompanied by a remittance of the tax shown to be due thereon. When  
32 such return is not accepted, the taxpayer shall be deemed to have  
33 failed or refused to file a return and shall be subject to the  
34 procedures provided in RCW 82.32.100 and to the penalties provided in  
35 RCW 82.32.090. The above authority to refuse to accept a return shall  
36 not apply when a return is timely filed and a timely payment has been  
37 made by electronic funds transfer.

1       **Sec. 4.** RCW 82.32.180 and 1992 c 206 s 4 are each amended to read  
2 as follows:

3       Any person, except one who has failed to keep and preserve books,  
4 records, and invoices as required in this chapter and chapter 82.24  
5 RCW, having paid any tax as required and feeling aggrieved by the  
6 amount of the tax may appeal to the superior court of Thurston county,  
7 within the time limitation for a refund provided in chapter 82.32 RCW  
8 or, if an application for refund has been made to the department within  
9 that time limitation, then within thirty days after rejection of the  
10 application, whichever time limitation is later. In the appeal the  
11 taxpayer shall set forth the amount of the tax imposed upon the  
12 taxpayer which the taxpayer concedes to be the correct tax and the  
13 reason why the tax should be reduced or abated. The appeal shall be  
14 perfected by serving a copy of the notice of appeal upon the department  
15 within the time herein specified and by filing the original thereof  
16 with proof of service with the clerk of the superior court of Thurston  
17 county.

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

30       It shall not be necessary for the taxpayer to protest against the  
31 payment of any tax or to make any demand to have the same refunded or  
32 to petition the director for a hearing in order to appeal to the  
33 superior court, but no court action or proceeding of any kind shall be  
34 maintained by the taxpayer to recover any tax paid, or any part  
35 thereof, except as herein provided.

36       The provisions of this section shall not apply to any tax payment  
37 which has been the subject of an appeal to the board of tax appeals  
38 with respect to which appeal a formal hearing has been elected.

1       **Sec. 5.** RCW 82.60.040 and 1995 1st sp.s. c 3 s 6 are each amended  
2 to read as follows:

3       (1) The department shall issue a sales and use tax deferral  
4 certificate for state and local sales and use taxes due under chapters  
5 82.08, 82.12, and 82.14 RCW on each eligible investment project that:

6       (a) Is located in an eligible area as defined in RCW  
7 82.60.020(3)(a), (b), ~~((d), or)~~ (c), (e), or (f);

8       (b) Is located in an eligible area as defined in RCW  
9 82.60.020(3)~~((f))~~(g) if seventy-five percent of the new qualified  
10 employment positions are to be filled by residents of a contiguous  
11 county that is an eligible area as defined in RCW 82.60.020(3)(a) or  
12 ~~((e))~~ (f); or

13       (c) Is located in an eligible area as defined in RCW  
14 82.60.020(3)~~((e))~~(d) if seventy-five percent of the new qualified  
15 employment positions are to be filled by residents of a designated  
16 community empowerment zone approved under RCW 43.63A.700 located within  
17 the county in which the eligible investment project is located.

18       (2) The department shall keep a running total of all deferrals  
19 granted under this chapter during each fiscal biennium.

20       **Sec. 6.** RCW 84.36.470 and 1989 c 378 s 12 are each amended to read  
21 as follows:

22       The following property shall be exempt from taxation: Any  
23 agricultural ~~((or horticultural produce or crop, including any animal,~~  
24 ~~bird, or insect, or the milk, eggs, wool, fur, meat, honey, or other~~  
25 ~~substance obtained therefrom))~~ product as defined in RCW 82.04.213 and  
26 grown or produced for sale by any person upon ((his)) the person's own  
27 lands or upon lands in which ((he)) the person has a present right of  
28 possession ((who is exempted from payment of business and occupation  
29 tax pursuant to RCW 82.04.330)). Taxpayers shall not be required to  
30 report, or assessors to list, the inventories covered by this  
31 exemption.

32       ~~((Nothing in this section shall be construed to remove or otherwise~~  
33 ~~affect any exemption from assessment granted by RCW 84.44.060.))~~

34       **Sec. 7.** RCW 84.36.800 and 1994 c 124 s 18 are each amended to read  
35 as follows:

1 As used in RCW 84.36.020, 84.36.030, (~~84.36.550~~) 84.36.037,  
2 84.36.040, 84.36.041, 84.36.050, 84.36.060, 84.36.550, and 84.36.800  
3 through 84.36.865:

4 (1) "Church purposes" means the use of real and personal property  
5 owned by a nonprofit religious organization for religious worship or  
6 related administrative, educational, eleemosynary, and social  
7 activities. This definition is to be broadly construed;

8 (2) "Convent" means a house or set of buildings occupied by a  
9 community of clergy or nuns devoted to religious life under a superior;

10 (3) "Hospital" means any portion of a hospital building, or other  
11 buildings in connection therewith, used as a residence for persons  
12 engaged or employed in the operation of a hospital, or operated as a  
13 portion of the hospital unit;

14 (4) "Nonprofit" means an organization, association or corporation  
15 no part of the income of which is paid directly or indirectly to its  
16 members, stockholders, officers, directors or trustees except in the  
17 form of services rendered by the organization, association, or  
18 corporation in accordance with its purposes and bylaws and the salary  
19 or compensation paid to officers of such organization, association or  
20 corporation is for actual services rendered and compares to the salary  
21 or compensation of like positions within the public services of the  
22 state;

23 (5) "Parsonage" means a residence occupied by a member of the  
24 clergy who has been designated for a particular congregation and who  
25 holds regular services therefor.

26 **Sec. 8.** RCW 84.36.805 and 1995 2nd sp.s. c 9 s 2 are each amended  
27 to read as follows:

28 In order to be exempt pursuant to RCW 84.36.030, (~~84.36.550~~)  
29 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045,  
30 84.36.047, 84.36.050, 84.36.060, 84.36.350, (~~and~~) 84.36.480, and  
31 84.36.550, the nonprofit organizations, associations or corporations  
32 shall satisfy the following conditions:

33 (1) The property is used exclusively for the actual operation of  
34 the activity for which exemption is granted, unless otherwise provided,  
35 and does not exceed an amount reasonably necessary for that purpose,  
36 except:

37 (a) The loan or rental of the property does not subject the  
38 property to tax if:

1 (i) The rents and donations received for the use of the portion of  
2 the property are reasonable and do not exceed the maintenance and  
3 operation expenses attributable to the portion of the property loaned  
4 or rented; and

5 (ii) Except for the exemptions under RCW 84.36.030(4) and  
6 84.36.037, the property would be exempt from tax if owned by the  
7 organization to which it is loaned or rented;

8 (b) The use of the property for fund-raising activities does not  
9 subject the property to tax if the fund-raising activities are  
10 consistent with the purposes for which the exemption is granted;

11 (2) The property is irrevocably dedicated to the purpose for which  
12 exemption has been granted, and on the liquidation, dissolution, or  
13 abandonment by said organization, association, or corporation, said  
14 property will not inure directly or indirectly to the benefit of any  
15 shareholder or individual, except a nonprofit organization,  
16 association, or corporation which too would be entitled to property tax  
17 exemption: PROVIDED, That the property need not be irrevocably  
18 dedicated if it is leased or rented to those qualified for exemption  
19 pursuant to RCW 84.36.035, 84.36.040, 84.36.041, or 84.36.043 or those  
20 qualified for exemption as an association engaged in the production or  
21 performance of musical, dance, artistic, dramatic, or literary works  
22 pursuant to RCW 84.36.060, but only if under the terms of the lease or  
23 rental agreement the nonprofit organization, association, or  
24 corporation receives the benefit of the exemption;

25 (3) The facilities and services are available to all regardless of  
26 race, color, national origin or ancestry;

27 (4) The organization, association, or corporation is duly licensed  
28 or certified where such licensing or certification is required by law  
29 or regulation;

30 (5) Property sold to organizations, associations, or corporations  
31 with an option to be repurchased by the seller shall not qualify for  
32 exempt status;

33 (6) The director of the department of revenue shall have access to  
34 its books in order to determine whether such organization, association,  
35 or corporation is exempt from taxes within the intent of RCW 84.36.030,  
36 84.36.035, 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045,  
37 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480.

1       **Sec. 9.** RCW 84.36.810 and 1994 c 124 s 19 are each amended to read  
2 as follows:

3       (1) Upon cessation of a use under which an exemption has been  
4 granted pursuant to RCW 84.36.030, (~~(84.36.550)~~) 84.36.037, 84.36.040,  
5 84.36.041, 84.36.043, 84.36.050, (~~and~~) 84.36.060, and 84.36.550, the  
6 county treasurer shall collect all taxes which would have been paid had  
7 the property not been exempt during the three years preceding, or the  
8 life of such exemption, if such be less, together with the interest at  
9 the same rate and computed in the same way as that upon delinquent  
10 property taxes. Where the property has been granted an exemption for  
11 more than ten years, taxes and interest shall not be assessed under  
12 this section.

13       (2) Subsection (1) of this section applies only when ownership of  
14 the property is transferred or when fifty-one percent or more of the  
15 area of the property has lost its exempt status. The additional tax  
16 under subsection (1) of this section shall not be imposed if the  
17 cessation of use resulted solely from:

18       (a) Transfer to a nonprofit organization, association, or  
19 corporation for a use which also qualifies and is granted exemption  
20 under the provisions of chapter 84.36 RCW;

21       (b) A taking through the exercise of the power of eminent domain,  
22 or sale or transfer to an entity having the power of eminent domain in  
23 anticipation of the exercise of such power;

24       (c) Official action by an agency of the state of Washington or by  
25 the county or city within which the property is located which disallows  
26 the present use of such property;

27       (d) A natural disaster such as a flood, windstorm, earthquake, or  
28 other such calamity rather than by virtue of the act of the  
29 organization, association, or corporation changing the use of such  
30 property;

31       (e) Relocation of the activity and use of another location or site  
32 except for undeveloped properties of camp facilities exempted under RCW  
33 84.36.030;

34       (f) Cancellation of a lease on property that had been exempt under  
35 RCW 84.36.040, 84.36.041, 84.36.043, or 84.36.060;

36       (g) A change in the exempt portion of a home for the aging under  
37 RCW 84.36.041(3), as long as some portion of the home remains exempt;



1 (h) The conversion of a full exemption of a home for the aging to  
2 a partial exemption or taxable status or the conversion of a partial  
3 exemption to taxable status under RCW 84.36.041(8).

4 NEW SECTION. **Sec. 10.** RCW 82.04.435 is decodified.

5 NEW SECTION. **Sec. 11.** The following acts or parts of acts are  
6 each repealed:

7 (1) RCW 82.04.444 and 1974 ex.s. c 169 s 5; and

8 (2) RCW 82.04.445 and 1974 ex.s. c 169 s 6.

9 NEW SECTION. **Sec. 12.** Section 5 of this act expires July 1, 2004.

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