
HOUSE BILL 1821

State of Washington 55th Legislature 1997 Regular Session

By Representatives B. Thomas, Mulliken, Bush, Zellinsky, Kastama, Sullivan, Wensman, Carrell and Schoesler

Read first time 02/10/97. Referred to Committee on Finance.

1 AN ACT Relating to consolidating business and occupation tax rates
2 into fewer categories; amending RCW 48.14.080, 82.04.240, 82.04.250,
3 82.04.255, 82.04.270, 82.04.290, 82.04.2201, 82.04.293, and 82.04.440;
4 reenacting and amending RCW 82.04.260; adding a new section to chapter
5 82.04 RCW; repealing RCW 82.04.055; providing an effective date; and
6 declaring an emergency.

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

8 **Sec. 1.** RCW 48.14.080 and 1993 sp.s. c 25 s 602 are each amended
9 to read as follows:

10 As to insurers, other than title insurers and taxpayers under RCW
11 48.14.0201, the taxes imposed by this title shall be in lieu of all
12 other taxes, except taxes on real and tangible personal property,
13 excise taxes on the sale, purchase or use of such property, and the tax
14 imposed in RCW 82.04.260(~~(+15)~~)(14).

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
16 to read as follows:

17 This chapter does not apply to amounts received from buying wheat,
18 oats, dry peas, dry beans, lentils, triticale, canola, corn, rye, and

1 barley, but not including any manufactured or processed products
2 thereof, and selling the same at wholesale.

3 **Sec. 3.** RCW 82.04.240 and 1993 sp.s. c 25 s 102 are each amended
4 to read as follows:

5 Upon every person except persons taxable under RCW 82.04.260 (1),
6 (2), (3), (4), (~~((5))~~) (6), (7), or (8)(~~(, or (9))~~) engaging within
7 this state in business as a manufacturer; as to such persons the amount
8 of the tax with respect to such business shall be equal to the value of
9 the products, including byproducts, manufactured, multiplied by the
10 rate of 0.484 percent.

11 The measure of the tax is the value of the products, including
12 byproducts, so manufactured regardless of the place of sale or the fact
13 that deliveries may be made to points outside the state.

14 **Sec. 4.** RCW 82.04.250 and 1993 sp.s. c 25 s 103 are each amended
15 to read as follows:

16 (1) Upon every person except persons taxable under RCW
17 82.04.260(~~((8))~~)(7) or subsection (2) of this section engaging within
18 this state in the business of making sales at retail, as to such
19 persons, the amount of tax with respect to such business shall be equal
20 to the gross proceeds of sales of the business, multiplied by the rate
21 of 0.471 percent.

22 (2) Upon every person engaging within this state in the business of
23 making sales at retail that are exempt from the tax imposed under
24 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
25 82.08.0263, as to such persons, the amount of tax with respect to such
26 business shall be equal to the gross proceeds of sales of the business,
27 multiplied by the rate of 0.484 percent.

28 **Sec. 5.** RCW 82.04.255 and 1996 c 1 s 1 are each amended to read as
29 follows:

30 Upon every person engaging within the state as a real estate
31 broker; as to such persons, the amount of the tax with respect to such
32 business shall be equal to the gross income of the business, multiplied
33 by the rate of (~~(1.75)~~) 1.5 percent.

34 The measure of the tax on real estate commissions earned by the
35 real estate broker shall be the gross commission earned by the
36 particular real estate brokerage office including that portion of the

1 commission paid to salesmen or associate brokers in the same office on
2 a particular transaction: PROVIDED, HOWEVER, That where a real estate
3 commission is divided between an originating brokerage office and a
4 cooperating brokerage office on a particular transaction, each
5 brokerage office shall pay the tax only upon their respective shares of
6 said commission: AND PROVIDED FURTHER, That where the brokerage office
7 has paid the tax as provided herein, salesmen or associate brokers
8 within the same brokerage office shall not be required to pay a similar
9 tax upon the same transaction.

10 **Sec. 6.** RCW 82.04.260 and 1996 c 148 s 2 and 1996 c 115 s 1 are
11 each reenacted and amended to read as follows:

12 ~~(1) ((Upon every person engaging within this state in the business
13 of buying wheat, oats, dry peas, dry beans, lentils, triticale, canola,
14 corn, rye and barley, but not including any manufactured or processed
15 products thereof, and selling the same at wholesale; the tax imposed
16 shall be equal to the gross proceeds derived from such sales multiplied
17 by the rate of 0.011 percent.~~

18 ~~(2))~~ Upon every person engaging within this state in the business
19 of manufacturing wheat into flour, barley into pearl barley, soybeans
20 into soybean oil, canola into canola oil, canola meal, or canola
21 byproducts, or sunflower seeds into sunflower oil; as to such persons
22 the amount of tax with respect to such business shall be equal to the
23 value of the flour, pearl barley, oil, canola meal, or canola byproduct
24 manufactured, multiplied by the rate of 0.138 percent.

25 ~~((3))~~ (2) Upon every person engaging within this state in the
26 business of splitting or processing dried peas; as to such persons the
27 amount of tax with respect to such business shall be equal to the value
28 of the peas split or processed, multiplied by the rate of ~~((0.275))~~
29 0.138 percent.

30 ~~((4))~~ (3) Upon every person engaging within this state in the
31 business of manufacturing seafood products which remain in a raw, raw
32 frozen, or raw salted state at the completion of the manufacturing by
33 that person; as to such persons the amount of tax with respect to such
34 business shall be equal to the value of the products manufactured,
35 multiplied by the rate of 0.138 percent.

36 ~~((5))~~ (4) Upon every person engaging within this state in the
37 business of manufacturing by canning, preserving, freezing, processing,
38 or dehydrating fresh fruits and vegetables, or selling at wholesale

1 fresh fruits and vegetables canned, preserved, frozen, processed, or
2 dehydrated by the seller and sold to purchasers who transport in the
3 ordinary course of business the goods out of this state; as to such
4 persons the amount of tax with respect to such business shall be equal
5 to the value of the products canned, preserved, frozen, processed, or
6 dehydrated multiplied by the rate of (~~0.33~~) 0.138 percent. As proof
7 of sale to a person who transports in the ordinary course of business
8 goods out of this state, the seller shall annually provide a statement
9 in a form prescribed by the department and retain the statement as a
10 business record.

11 (~~(6)~~) (5) Upon every nonprofit corporation and nonprofit
12 association engaging within this state in research and development, as
13 to such corporations and associations, the amount of tax with respect
14 to such activities shall be equal to the gross income derived from such
15 activities multiplied by the rate of 0.484 percent.

16 (~~(7)~~) (6) Upon every person engaging within this state in the
17 business of slaughtering, breaking and/or processing perishable meat
18 products and/or selling the same at wholesale only and not at retail;
19 as to such persons the tax imposed shall be equal to the gross proceeds
20 derived from such sales multiplied by the rate of 0.138 percent.

21 (~~(8)~~) (7) Upon every person engaging within this state in the
22 business of making sales, at retail or wholesale, of nuclear fuel
23 assemblies manufactured by that person, as to such persons the amount
24 of tax with respect to such business shall be equal to the gross
25 proceeds of sales of the assemblies multiplied by the rate of 0.275
26 percent.

27 (~~(9)~~) (8) Upon every person engaging within this state in the
28 business of manufacturing nuclear fuel assemblies, as to such persons
29 the amount of tax with respect to such business shall be equal to the
30 value of the products manufactured multiplied by the rate of 0.275
31 percent.

32 (~~(10)~~) (9) Upon every person engaging within this state in the
33 business of acting as a travel agent or tour operator; as to such
34 persons the amount of the tax with respect to such activities shall be
35 equal to the gross income derived from such activities multiplied by
36 the rate of 0.275 percent.

37 (~~(11)~~) (10) Upon every person engaging within this state in
38 business as an international steamship agent, international customs
39 house broker, international freight forwarder, vessel and/or cargo

1 charter broker in foreign commerce, and/or international air cargo
2 agent; as to such persons the amount of the tax with respect to only
3 international activities shall be equal to the gross income derived
4 from such activities multiplied by the rate of (~~(0.363)~~) 0.275 percent.

5 (~~(12)~~) (11) Upon every person engaging within this state in the
6 business of stevedoring and associated activities pertinent to the
7 movement of goods and commodities in waterborne interstate or foreign
8 commerce; as to such persons the amount of tax with respect to such
9 business shall be equal to the gross proceeds derived from such
10 activities multiplied by the rate of (~~(0.363)~~) 0.275 percent. Persons
11 subject to taxation under this subsection shall be exempt from payment
12 of taxes imposed by chapter 82.16 RCW for that portion of their
13 business subject to taxation under this subsection. Stevedoring and
14 associated activities pertinent to the conduct of goods and commodities
15 in waterborne interstate or foreign commerce are defined as all
16 activities of a labor, service or transportation nature whereby cargo
17 may be loaded or unloaded to or from vessels or barges, passing over,
18 onto or under a wharf, pier, or similar structure; cargo may be moved
19 to a warehouse or similar holding or storage yard or area to await
20 further movement in import or export or may move to a consolidation
21 freight station and be stuffed, unstuffed, containerized, separated or
22 otherwise segregated or aggregated for delivery or loaded on any mode
23 of transportation for delivery to its consignee. Specific activities
24 included in this definition are: Wharfage, handling, loading,
25 unloading, moving of cargo to a convenient place of delivery to the
26 consignee or a convenient place for further movement to export mode;
27 documentation services in connection with the receipt, delivery,
28 checking, care, custody and control of cargo required in the transfer
29 of cargo; imported automobile handling prior to delivery to consignee;
30 terminal stevedoring and incidental vessel services, including but not
31 limited to plugging and unplugging refrigerator service to containers,
32 trailers, and other refrigerated cargo receptacles, and securing ship
33 hatch covers.

34 (~~(13)~~) (12) Upon every person engaging within this state in the
35 business of disposing of low-level waste, as defined in RCW 43.145.010;
36 as to such persons the amount of the tax with respect to such business
37 shall be equal to the gross income of the business, excluding any fees
38 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
39 percent.

1 If the gross income of the taxpayer is attributable to activities
2 both within and without this state, the gross income attributable to
3 this state shall be determined in accordance with the methods of
4 apportionment required under RCW 82.04.460.

5 ~~((14))~~ (13) Upon every person engaging within this state as an
6 insurance agent, insurance broker, or insurance solicitor licensed
7 under chapter 48.17 RCW; as to such persons, the amount of the tax with
8 respect to such licensed activities shall be equal to the gross income
9 of such business multiplied by the rate of ~~((0.55))~~ 0.484 percent.

10 ~~((15))~~ (14) Upon every person engaging within this state in
11 business as a hospital, as defined in chapter 70.41 RCW, that is
12 operated as a nonprofit corporation or by the state or any of its
13 political subdivisions, as to such persons, the amount of tax with
14 respect to such activities shall be equal to the gross income of the
15 business multiplied by the rate of 0.75 percent through June 30, 1995,
16 and 1.5 percent thereafter. The moneys collected under this subsection
17 shall be deposited in the health services account created under RCW
18 43.72.900.

19 **Sec. 7.** RCW 82.04.270 and 1994 c 124 s 2 are each amended to read
20 as follows:

21 (1) Upon every person except persons taxable under ~~((subsections~~
22 ~~(1) or (8) of))~~ RCW 82.04.260(7) or section 2 of this act engaging
23 within this state in the business of making sales at wholesale; as to
24 such persons the amount of tax with respect to such business shall be
25 equal to the gross proceeds of sales of such business multiplied by the
26 rate of 0.484 percent.

27 (2) The tax imposed by this section is levied and shall be
28 collected from every person engaged in the business of distributing in
29 this state articles of tangible personal property, owned by them from
30 their own warehouse or other central location in this state to two or
31 more of their own retail stores or outlets, where no change of title or
32 ownership occurs, the intent hereof being to impose a tax equal to the
33 wholesaler's tax upon persons performing functions essentially
34 comparable to those of a wholesaler, but not actually making sales.
35 The tax designated in this section may not be assessed twice to the
36 same person for the same article. The amount of the tax as to such
37 persons shall be computed by multiplying 0.484 percent of the value of
38 the article so distributed as of the time of such distribution. The

1 department of revenue shall prescribe uniform and equitable rules for
2 the purpose of ascertaining such value, which value shall correspond as
3 nearly as possible to the gross proceeds from sales at wholesale in
4 this state of similar articles of like quality and character, and in
5 similar quantities by other taxpayers. Delivery trucks or vans will
6 not under the purposes of this section be considered to be retail
7 stores or outlets.

8 **Sec. 8.** RCW 82.04.290 and 1996 c 1 s 2 are each amended to read as
9 follows:

10 (1) (~~Upon every person engaging within this state in the business~~
11 ~~of providing selected business services other than or in addition to~~
12 ~~those enumerated in RCW 82.04.250 or 82.04.270; as to such persons the~~
13 ~~amount of tax on account of such activities shall be equal to the gross~~
14 ~~income of the business multiplied by the rate of 2.0 percent.~~

15 (2) ~~Upon every person engaging within this state in banking, loan,~~
16 ~~security, investment management, investment advisory, or other~~
17 ~~financial businesses, other than or in addition to those enumerated in~~
18 ~~subsection (3) of this section; as to such persons, the amount of the~~
19 ~~tax with respect to such business shall be equal to the gross income of~~
20 ~~the business, multiplied by the rate of 1.6 percent.~~

21 (3)) Upon every person engaging within this state in the business
22 of providing international investment management services, as to such
23 persons, the amount of tax with respect to such business shall be equal
24 to the gross income or gross proceeds of sales of the business
25 multiplied by a rate of 0.275 percent.

26 ((4)) (2) Upon every person engaging within this state in any
27 business activity other than or in addition to those enumerated in RCW
28 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and
29 82.04.280, and subsection((s)) (1)((, (2), and (3))) of this section;
30 as to such persons the amount of tax on account of such activities
31 shall be equal to the gross income of the business multiplied by the
32 rate of ((1.75)) 1.5 percent.

33 This section includes, among others, and without limiting the scope
34 hereof (whether or not title to materials used in the performance of
35 such business passes to another by accession, confusion or other than
36 by outright sale), persons engaged in the business of rendering any
37 type of service which does not constitute a "sale at retail" or a "sale
38 at wholesale." The value of advertising, demonstration, and

1 promotional supplies and materials furnished to an agent by his
2 principal or supplier to be used for informational, educational and
3 promotional purposes shall not be considered a part of the agent's
4 remuneration or commission and shall not be subject to taxation under
5 this section.

6 **Sec. 9.** RCW 82.04.2201 and 1996 c 112 s 4 are each amended to read
7 as follows:

8 There is levied and shall be collected for the period July 1, 1993,
9 through June 30, 1997, from every person for the act or privilege of
10 engaging in business activities, as a part of the tax imposed under RCW
11 82.04.220 through 82.04.280 and 82.04.290 (~~((+3))~~) (1) and (~~((+4))~~) (2),
12 except RCW 82.04.250(1), 82.04.260(~~((+15))~~)(14), and 82.04.263, an
13 additional tax equal to 4.5 percent multiplied by the tax payable under
14 those sections.

15 To facilitate collection of these additional taxes, the department
16 of revenue is authorized to adjust the basic rates of persons to which
17 this section applies in such manner as to reflect the amount to the
18 nearest one-thousandth of one percent of the additional tax hereby
19 imposed, adjusting ten-thousandths equal to or greater than five ten-
20 thousandths to the greater thousandth.

21 **Sec. 10.** RCW 82.04.293 and 1995 c 229 s 1 are each amended to read
22 as follows:

23 For purposes of RCW 82.04.290(~~((+3))~~) (1):

24 (1) A person is engaged in the business of providing international
25 investment management services, if:

26 (a) Such person is engaged primarily in the business of providing
27 investment management services; and

28 (b) At least ten percent of the gross income of such person is
29 derived from providing investment management services to any of the
30 following: (i) Persons or collective investment funds residing outside
31 the United States; or (ii) persons or collective investment funds with
32 at least ten percent of their investments located outside the United
33 States.

34 (2) "Investment management services" means investment research,
35 investment consulting, portfolio management, fund administration, fund
36 distribution, investment transactions, or related investment services.

37 (3) "Collective investment fund" includes:

1 (a) A mutual fund or other regulated investment company, as defined
2 in section 851(a) of the internal revenue code of 1986, as amended;

3 (b) An "investment company," as that term is used in section 3(a)
4 of the investment company act of 1940, as well as any entity that would
5 be an investment company for this purpose but for the exemptions
6 contained in section 3(c)(1) or (11);

7 (c) An "employee benefit plan," which includes any plan, trust,
8 commingled employee benefit trust, or custodial arrangement that is
9 subject to the employee retirement income security act of 1974, as
10 amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections
11 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the
12 internal revenue code of 1986, as amended, or a similar plan maintained
13 by a state or local government, or a plan, trust, or custodial
14 arrangement established to self-insure benefits required by federal,
15 state, or local law;

16 (d) A fund maintained by a tax-exempt organization, as defined in
17 section 501(c)(3) of the internal revenue code of 1986, as amended, for
18 operating, quasi-endowment, or endowment purposes;

19 (e) Funds that are established for the benefit of such tax-exempt
20 organizations, such as charitable remainder trusts, charitable lead
21 trusts, charitable annuity trusts, or other similar trusts; or

22 (f) Collective investment funds similar to those described in (a)
23 through (e) of this subsection created under the laws of a foreign
24 jurisdiction.

25 (4) Investments are located outside the United States if the
26 underlying assets in which the investment constitutes a beneficial
27 interest reside or are created, issued or held outside the United
28 States.

29 **Sec. 11.** RCW 82.04.440 and 1994 c 124 s 4 are each amended to read
30 as follows:

31 (1) Every person engaged in activities which are within the purview
32 of the provisions of two or more of sections RCW 82.04.230 to
33 82.04.290, inclusive, shall be taxable under each paragraph applicable
34 to the activities engaged in.

35 (2) Persons taxable under RCW 82.04.250, 82.04.270, or
36 82.04.260(~~(+7)~~)(6) with respect to selling products in this state
37 shall be allowed a credit against those taxes for any (a) manufacturing
38 taxes paid with respect to the manufacturing of products so sold in

1 this state, and/or (b) extracting taxes paid with respect to the
2 extracting of products so sold in this state or ingredients of products
3 so sold in this state. Extracting taxes taken as credit under
4 subsection (3) of this section may also be taken under this subsection,
5 if otherwise allowable under this subsection. The amount of the credit
6 shall not exceed the tax liability arising under this chapter with
7 respect to the sale of those products.

8 (3) Persons taxable under RCW 82.04.240 or 82.04.260 (~~subsection~~
9 ~~(4)~~) (3) shall be allowed a credit against those taxes for any
10 extracting taxes paid with respect to extracting the ingredients of the
11 products so manufactured in this state. The amount of the credit shall
12 not exceed the tax liability arising under this chapter with respect to
13 the manufacturing of those products.

14 (4) Persons taxable under RCW 82.04.230, 82.04.240, or (~~subsection~~
15 ~~(2), (3), (4), (5), or (7) of~~) RCW 82.04.260 (1), (2), (3), (4), or
16 (6) with respect to extracting or manufacturing products in this state
17 shall be allowed a credit against those taxes for any (i) gross
18 receipts taxes paid to another state with respect to the sales of the
19 products so extracted or manufactured in this state, (ii) manufacturing
20 taxes paid with respect to the manufacturing of products using
21 ingredients so extracted in this state, or (iii) manufacturing taxes
22 paid with respect to manufacturing activities completed in another
23 state for products so manufactured in this state. The amount of the
24 credit shall not exceed the tax liability arising under this chapter
25 with respect to the extraction or manufacturing of those products.

26 (5) For the purpose of this section:

27 (a) "Gross receipts tax" means a tax:

28 (i) Which is imposed on or measured by the gross volume of
29 business, in terms of gross receipts or in other terms, and in the
30 determination of which the deductions allowed would not constitute the
31 tax an income tax or value added tax; and

32 (ii) Which is also not, pursuant to law or custom, separately
33 stated from the sales price.

34 (b) "State" means (i) the state of Washington, (ii) a state of the
35 United States other than Washington, or any political subdivision of
36 such other state, (iii) the District of Columbia, and (iv) any foreign
37 country or political subdivision thereof.

38 (c) "Manufacturing tax" means a gross receipts tax imposed on the
39 act or privilege of engaging in business as a manufacturer, and

1 includes (i) the taxes imposed in RCW 82.04.240 and (~~(subsections (2),~~
2 ~~(3), (4), (5), and (7) of)~~) RCW 82.04.260 (1), (2), (3), (4), and (6),
3 and (ii) similar gross receipts taxes paid to other states.

4 (d) "Extracting tax" means a gross receipts tax imposed on the act
5 or privilege of engaging in business as an extractor, and includes the
6 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
7 other states.

8 (e) "Business", "manufacturer", "extractor", and other terms used
9 in this section have the meanings given in RCW 82.04.020 through
10 82.04.212, notwithstanding the use of those terms in the context of
11 describing taxes imposed by other states.

12 NEW SECTION. **Sec. 12.** RCW 82.04.055 and 1993 sp.s. c 25 s 201 are
13 each repealed.

14 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 1997.

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