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SENATE BILL 5230

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State of Washington

56th Legislature

1999 Regular Session

By Senators T. Sheldon and Prentice

Read first time 01/18/1999. Referred to Committee on Ways & Means.

1 AN ACT Relating to leasehold excise taxation; amending RCW  
2 82.29A.120, 82.29A.050, and 82.29A.080; and providing an effective  
3 date.

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

5 **Sec. 1.** RCW 82.29A.120 and 1994 c 95 s 2 are each amended to read  
6 as follows:

7 (1) After computation of the taxes imposed pursuant to RCW  
8 82.29A.030 and 82.29A.040 there shall be allowed the following credits  
9 in determining the tax payable:

10 ~~((1))~~ (a) With respect to a leasehold interest other than a  
11 product lease, executed with an effective date of April 1, 1986, or  
12 thereafter, or a leasehold interest in respect to which the department  
13 of revenue under the authority of RCW 82.29A.020 does adjust the  
14 contract rent base used for computing the tax provided for in RCW  
15 82.29A.030, there shall be allowed a credit against the tax as  
16 otherwise computed equal to the amount, if any, that such tax exceeds  
17 the property tax that would apply to such leased property without  
18 regard to any property tax exemption under RCW 84.36.381, if it were  
19 privately owned by the lessee or if it were privately owned by any

1 sublessee if the value of the credit inures to the sublessee. ((For  
2 lessees and sublessees who would qualify for a property tax exemption  
3 under RCW 84.36.381 if the property were privately owned, the tax  
4 otherwise due after this credit shall be reduced by a percentage equal  
5 to the percentage reduction in property tax that would result from the  
6 property tax exemption under RCW 84.36.381.

7 (2)) (b) With respect to a leasehold interest consisting of three  
8 thousand or more residential lots that are subleased for residential  
9 purposes for which taxable rent is determined under RCW  
10 82.29A.020(2)(b), there shall be allowed a credit against the tax as  
11 otherwise computed and after any credit under (a) of this subsection  
12 equal to the amount, if any, that the tax due after any credit under  
13 (a) of this subsection exceeds an increase in revenue on the leasehold  
14 interest from the prior year of the lesser of six percent or the  
15 inflation factor. The inflation factor is the percentage change in the  
16 implicit price deflator for personal consumption expenditures for the  
17 United States as published for the most recent twelve-month period by  
18 the bureau of economic analysis of the federal department of commerce  
19 in September of the year before the taxes are payable.

20 (c) With respect to a product lease, a credit of thirty-three  
21 percent of the tax otherwise due.

22 (2) For lessees and sublessees who would qualify for a property tax  
23 exemption under RCW 84.36.381 if the property were privately owned, the  
24 tax otherwise due after the credits authorized in subsection (1) of  
25 this section shall be reduced by a percentage equal to the percentage  
26 reduction in property tax that would result from the property tax  
27 exemption under RCW 84.36.381.

28 **Sec. 2.** RCW 82.29A.050 and 1992 c 206 s 6 are each amended to read  
29 as follows:

30 (1) Except as provided in subsection (2) of this section, the  
31 leasehold excise taxes provided for in RCW 82.29A.030 and 82.29A.040  
32 shall be paid by the lessee to the lessor and the lessor shall collect  
33 such tax and remit the same to the department of revenue. The tax  
34 shall be payable at the same time as payments are due to the lessor for  
35 use of the property from which the leasehold interest arises, and in  
36 the case of payment of contract rent to a person other than the lessor,  
37 at the time of payment. The tax payment shall be accompanied by such  
38 information as the department of revenue may require. In the case of

1 prepaid contract rent the payment may be prorated in accordance with  
2 instructions of the department of revenue and the prorated portion of  
3 the tax shall be due, one-half not later than May 31 and the other half  
4 not later than November 30 each year.

5 (2) Leasehold excise taxes on a leasehold interest consisting of  
6 three thousand or more residential lots that are subleased for  
7 residential purposes for which taxable rent is determined under RCW  
8 82.29A.020(2)(b) shall be paid by the sublessee, or the lessee if there  
9 is no sublessee for a particular lot, to the county treasurer at such  
10 times and subject to the same penalties as property taxes under RCW  
11 84.56.020. Immediately following the last day of each month, the  
12 county treasurer shall remit the taxes collected to the state treasurer  
13 for deposit into the local leasehold excise tax account. The  
14 remittance shall be accompanied by such information as the department  
15 of revenue may require.

16 (3) The lessor receiving taxes payable under the provisions of this  
17 chapter shall remit the same together with a return provided by the  
18 department, to the department of revenue on or before the last day of  
19 the month following the month in which the tax is collected. The  
20 department may relieve any taxpayer or class of taxpayers from the  
21 obligation of filing monthly returns and may require the return to  
22 cover other reporting periods, but in no event shall returns be filed  
23 for a period greater than one year. The lessor shall be fully liable  
24 for collection and remittance of the tax. The amount of tax until paid  
25 by the lessee to the lessor shall constitute a debt from the lessee to  
26 the lessor. The tax required by this chapter shall be stated  
27 separately from contract rent, and if not so separately stated for  
28 purposes of determining the tax due from the lessee to the lessor and  
29 from the lessor to the department, the contract rent does not include  
30 the tax imposed by this chapter. Where a lessee has failed to pay to  
31 the lessor the tax imposed by this chapter and the lessor has not paid  
32 the amount of the tax to the department, the department may, in its  
33 discretion, proceed directly against the lessee for collection of the  
34 tax: PROVIDED, That taxes due where contract rent has not been paid  
35 shall be reported by the lessor to the department and the lessee alone  
36 shall be liable for payment of the tax to the department.

37 ((+3+)) (4) Each person having a leasehold interest subject to the  
38 tax provided for in this chapter arising out of a lease of federally  
39 owned or federal trust lands shall report and remit the tax due

1 directly to the department of revenue in the same manner and at the  
2 same time as the lessor would be required to report and remit the tax  
3 if such lessor were a state public entity.

4 **Sec. 3.** RCW 82.29A.080 and 1985 c 57 s 84 are each amended to read  
5 as follows:

6 The counties and cities shall contract, prior to the effective date  
7 of an ordinance imposing a leasehold excise tax, with the department of  
8 revenue for administration and collection. The department of revenue  
9 shall deduct a percentage amount, as provided by such contract, not to  
10 exceed two percent of the taxes collected, for administration and  
11 collection expenses incurred by the department. No amount may be  
12 deducted for taxes collected under RCW 82.29A.050(2). The remainder of  
13 any portion of any tax authorized by RCW 82.29A.040 which is collected  
14 by the department of revenue shall be deposited by the state department  
15 of revenue in the local leasehold excise tax account hereby created in  
16 the state treasury. Moneys in the local leasehold excise tax account  
17 may be spent only for distribution to counties and cities imposing a  
18 leasehold excise tax.

19 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2000.

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