
SENATE BILL 5650

State of Washington 58th Legislature 2003 Regular Session

By Senators T. Sheldon, Benton, Finkbeiner, Johnson and Schmidt

Read first time 02/05/2003. Referred to Committee on Economic Development.

1 AN ACT Relating to extending expiration dates on tax credits,
2 exemptions, and deferrals; amending RCW 82.04.050, 82.04.190,
3 82.04.2635, 82.04.312, 82.16.042, 82.04.4452, 82.04.4456, 82.04.4457,
4 82.60.040, 82.60.050, and 82.63.030; and providing expiration dates.

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

6 **Sec. 1.** RCW 82.04.050 and 2002 c 178 s 1 are each amended to read
7 as follows:

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

15 (a) Purchases for the purpose of resale as tangible personal
16 property in the regular course of business without intervening use by
17 such person, but a purchase for the purpose of resale by a regional
18 transit authority under RCW 81.112.300 is not a sale for resale; or

1 (b) Installs, repairs, cleans, alters, imprints, improves,
2 constructs, or decorates real or personal property of or for consumers,
3 if such tangible personal property becomes an ingredient or component
4 of such real or personal property without intervening use by such
5 person; or

6 (c) Purchases for the purpose of consuming the property purchased
7 in producing for sale a new article of tangible personal property or
8 substance, of which such property becomes an ingredient or component or
9 is a chemical used in processing, when the primary purpose of such
10 chemical is to create a chemical reaction directly through contact with
11 an ingredient of a new article being produced for sale; or

12 (d) Purchases for the purpose of consuming the property purchased
13 in producing ferrosilicon which is subsequently used in producing
14 magnesium for sale, if the primary purpose of such property is to
15 create a chemical reaction directly through contact with an ingredient
16 of ferrosilicon; or

17 (e) Purchases for the purpose of providing the property to
18 consumers as part of competitive telephone service, as defined in RCW
19 82.04.065. The term shall include every sale of tangible personal
20 property which is used or consumed or to be used or consumed in the
21 performance of any activity classified as a "sale at retail" or "retail
22 sale" even though such property is resold or utilized as provided in
23 (a), (b), (c), (d), or (e) of this subsection following such use. The
24 term also means every sale of tangible personal property to persons
25 engaged in any business which is taxable under RCW 82.04.280 (2) and
26 (7) and 82.04.290.

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

30 (a) The installing, repairing, cleaning, altering, imprinting, or
31 improving of tangible personal property of or for consumers, including
32 charges made for the mere use of facilities in respect thereto, but
33 excluding charges made for the use of coin-operated laundry facilities
34 when such facilities are situated in an apartment house, rooming house,
35 or mobile home park for the exclusive use of the tenants thereof, and
36 also excluding sales of laundry service to nonprofit health care
37 facilities, and excluding services rendered in respect to live animals,
38 birds and insects;

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

9 (c) The charge for labor and services rendered in respect to
10 constructing, repairing, or improving any structure upon, above, or
11 under any real property owned by an owner who conveys the property by
12 title, possession, or any other means to the person performing such
13 construction, repair, or improvement for the purpose of performing such
14 construction, repair, or improvement and the property is then
15 reconveyed by title, possession, or any other means to the original
16 owner;

17 (d) The sale of or charge made for labor and services rendered in
18 respect to the cleaning, fumigating, razing or moving of existing
19 buildings or structures, but shall not include the charge made for
20 janitorial services; and for purposes of this section the term
21 "janitorial services" shall mean those cleaning and caretaking services
22 ordinarily performed by commercial janitor service businesses
23 including, but not limited to, wall and window washing, floor cleaning
24 and waxing, and the cleaning in place of rugs, drapes and upholstery.
25 The term "janitorial services" does not include painting, papering,
26 repairing, furnace or septic tank cleaning, snow removal or
27 sandblasting;

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

32 (f) The sale of and charge made for the furnishing of lodging and
33 all other services by a hotel, rooming house, tourist court, motel,
34 trailer camp, and the granting of any similar license to use real
35 property, as distinguished from the renting or leasing of real
36 property, and it shall be presumed that the occupancy of real property
37 for a continuous period of one month or more constitutes a rental or
38 lease of real property and not a mere license to use or enjoy the same.

1 For the purposes of this subsection, it shall be presumed that the sale
2 of and charge made for the furnishing of lodging for a continuous
3 period of one month or more to a person is a rental or lease of real
4 property and not a mere license to enjoy the same;

5 (g) The sale of or charge made for tangible personal property,
6 labor and services to persons taxable under (a), (b), (c), (d), (e),
7 and (f) of this subsection when such sales or charges are for property,
8 labor and services which are used or consumed in whole or in part by
9 such persons in the performance of any activity defined as a "sale at
10 retail" or "retail sale" even though such property, labor and services
11 may be resold after such use or consumption. Nothing contained in this
12 subsection shall be construed to modify subsection (1) of this section
13 and nothing contained in subsection (1) of this section shall be
14 construed to modify this subsection.

15 (3) The term "sale at retail" or "retail sale" shall include the
16 sale of or charge made for personal, business, or professional services
17 including amounts designated as interest, rents, fees, admission, and
18 other service emoluments however designated, received by persons
19 engaging in the following business activities:

20 (a) Amusement and recreation services including but not limited to
21 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
22 for sightseeing purposes, and others, when provided to consumers;

23 (b) Abstract, title insurance, and escrow services;

24 (c) Credit bureau services;

25 (d) Automobile parking and storage garage services;

26 (e) Landscape maintenance and horticultural services but excluding
27 (i) horticultural services provided to farmers and (ii) pruning,
28 trimming, repairing, removing, and clearing of trees and brush near
29 electric transmission or distribution lines or equipment, if performed
30 by or at the direction of an electric utility;

31 (f) Service charges associated with tickets to professional
32 sporting events; and

33 (g) The following personal services: Physical fitness services,
34 tanning salon services, tattoo parlor services, steam bath services,
35 turkish bath services, escort services, and dating services.

36 (4) The term shall also include the renting or leasing of tangible
37 personal property to consumers and the rental of equipment with an
38 operator.

1 (5) The term shall also include the providing of telephone service,
2 as defined in RCW 82.04.065, to consumers.

3 (6) The term shall also include the sale of canned software other
4 than a sale to a person who presents a resale certificate under RCW
5 82.04.470, regardless of the method of delivery to the end user, but
6 shall not include custom software or the customization of canned
7 software.

8 (7) The term shall not include the sale of or charge made for labor
9 and services rendered in respect to the building, repairing, or
10 improving of any street, place, road, highway, easement, right of way,
11 mass public transportation terminal or parking facility, bridge,
12 tunnel, or trestle which is owned by a municipal corporation or
13 political subdivision of the state or by the United States and which is
14 used or to be used primarily for foot or vehicular traffic including
15 mass transportation vehicles of any kind.

16 (8) The term shall also not include sales of chemical sprays or
17 washes to persons for the purpose of postharvest treatment of fruit for
18 the prevention of scald, fungus, mold, or decay, nor shall it include
19 sales of feed, seed, seedlings, fertilizer, agents for enhanced
20 pollination including insects such as bees, and spray materials to:
21 (a) Persons who participate in the federal conservation reserve
22 program, the environmental quality incentives program, the wetlands
23 reserve program, and the wildlife habitat incentives program, or their
24 successors administered by the United States department of agriculture;
25 (b) farmers for the purpose of producing for sale any agricultural
26 product; and (c) farmers acting under cooperative habitat development
27 or access contracts with an organization exempt from federal income tax
28 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
29 fish and wildlife to produce or improve wildlife habitat on land that
30 the farmer owns or leases.

31 (9) The term shall not include the sale of or charge made for labor
32 and services rendered in respect to the constructing, repairing,
33 decorating, or improving of new or existing buildings or other
34 structures under, upon, or above real property 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, including the
37 installing, or attaching of any article of tangible personal property
38 therein or thereto, whether or not such personal property becomes a

1 part of the realty by virtue of installation. Nor shall the term
2 include the sale of services or charges made for the clearing of land
3 and the moving of earth of or for the United States, any
4 instrumentality thereof, or a county or city housing authority. Nor
5 shall the term include the sale of services or charges made for
6 cleaning up for the United States, or its instrumentalities,
7 radioactive waste and other byproducts of weapons production and
8 nuclear research and development.

9 (10) Until July 1, (~~2003~~) 2007, the term shall not include the
10 sale of or charge made for labor and services rendered for
11 environmental remedial action as defined in RCW 82.04.2635(2).

12 **Sec. 2.** RCW 82.04.190 and 2002 c 367 s 2 are each amended to read
13 as follows:

14 "Consumer" means the following:

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

35 (2)(a) Any person engaged in any business activity taxable under
36 RCW 82.04.290; (b) any person who purchases, acquires, or uses any
37 telephone service as defined in RCW 82.04.065, other than for resale in

1 the regular course of business; (c) any person who purchases, acquires,
2 or uses any service defined in RCW 82.04.050(2)(a) or any amusement and
3 recreation service defined in RCW 82.04.050(3)(a), other than for
4 resale in the regular course of business; and (d) any person who is an
5 end user of software;

6 (3) Any person engaged in the business of contracting for the
7 building, repairing or improving of any street, place, road, highway,
8 easement, right of way, mass public transportation terminal or parking
9 facility, bridge, tunnel, or trestle which is owned by a municipal
10 corporation or political subdivision of the state of Washington or by
11 the United States and which is used or to be used primarily for foot or
12 vehicular traffic including mass transportation vehicles of any kind as
13 defined in RCW 82.04.280, in respect to tangible personal property when
14 such person incorporates such property as an ingredient or component of
15 such publicly owned street, place, road, highway, easement, right of
16 way, mass public transportation terminal or parking facility, bridge,
17 tunnel, or trestle by installing, placing or spreading the property in
18 or upon the right of way of such street, place, road, highway,
19 easement, bridge, tunnel, or trestle or in or upon the site of such
20 mass public transportation terminal or parking facility;

21 (4) Any person who is an owner, lessee or has the right of
22 possession to or an easement in real property which is being
23 constructed, repaired, decorated, improved, or otherwise altered by a
24 person engaged in business, excluding only (a) municipal corporations
25 or political subdivisions of the state in respect to labor and services
26 rendered to their real property which is used or held for public road
27 purposes, and (b) the United States, instrumentalities thereof, and
28 county and city housing authorities created pursuant to chapter 35.82
29 RCW in respect to labor and services rendered to their real property.
30 Nothing contained in this or any other subsection of this definition
31 shall be construed to modify any other definition of "consumer";

32 (5) Any person who is an owner, lessee, or has the right of
33 possession to personal property which is being constructed, repaired,
34 improved, cleaned, imprinted, or otherwise altered by a person engaged
35 in business;

36 (6) Any person engaged in the business of constructing, repairing,
37 decorating, or improving new or existing buildings or other structures
38 under, upon, or above real property of or for the United States, any

1 instrumentality thereof, or a county or city housing authority created
2 pursuant to chapter 35.82 RCW, including the installing or attaching of
3 any article of tangible personal property therein or thereto, whether
4 or not such personal property becomes a part of the realty by virtue of
5 installation; also, any person engaged in the business of clearing land
6 and moving earth of or for the United States, any instrumentality
7 thereof, or a county or city housing authority created pursuant to
8 chapter 35.82 RCW. Any such person shall be a consumer within the
9 meaning of this subsection in respect to tangible personal property
10 incorporated into, installed in, or attached to such building or other
11 structure by such person;

12 (7) Any person who is a lessor of machinery and equipment, the
13 rental of which is exempt from the tax imposed by RCW 82.08.020 under
14 RCW 82.08.02565, with respect to the sale of or charge made for
15 tangible personal property consumed in respect to repairing the
16 machinery and equipment, if the tangible personal property has a useful
17 life of less than one year. Nothing contained in this or any other
18 subsection of this section shall be construed to modify any other
19 definition of "consumer";

20 (8) Any person engaged in the business of cleaning up for the
21 United States, or its instrumentalities, radioactive waste and other
22 byproducts of weapons production and nuclear research and development;
23 and

24 (9) Until July 1, (~~(2003)~~) 2007, any person engaged in the business
25 of conducting environmental remedial action as defined in RCW
26 82.04.2635(2).

27 **Sec. 3.** RCW 82.04.2635 and 2001 c 320 s 2 are each amended to read
28 as follows:

29 (1) Upon every person engaging within this state in the business of
30 environmental remedial action, the amount of tax with respect to such
31 business shall be equal to the value of the gross income of the
32 business multiplied by the rate 0.471 percent.

33 (2) For purposes of this chapter, "environmental remedial action"
34 means:

35 (a) Those services related to the identification, investigation, or
36 cleanup arising out of the release or threatened release of hazardous
37 substances that are conducted under contract with the department of

1 ecology or under an enforcement order, agreed order, or consent decree
2 executed by the department of ecology, or those services, when
3 evaluated as a whole, that are the substantial equivalent of a
4 department of ecology-conducted or supervised remedial action under the
5 model toxics control act, chapter 70.105D RCW; or

6 (b) Those services related to the identification, investigation, or
7 cleanup of a facility that are conducted under contract with the United
8 States environmental protection agency or under an order or consent
9 decree executed by the United States environmental protection agency,
10 or that are consistent with the national contingency plan adopted under
11 the comprehensive environmental response compensation and liability
12 act, 42 U.S.C. Sec. 9605 as it exists on July 1, 1998, and those
13 services are conducted at facilities that are included on the national
14 priorities list adopted under 42 U.S.C. Sec. 9605 as it exists on July
15 1, 1998, or at facilities subject to a removal action authorized under
16 42 U.S.C. Sec. 9604 as it exists on July 1, 1998.

17 (3) A site is eligible for environmental remedial action upon
18 submittal, via certified mail to the department of ecology and the
19 department of revenue, of the following:

20 (a) A certification from the owner, the department of ecology, or
21 the United States environmental protection agency, containing the
22 following information:

23 (i) The location of the site, shown on a map and identified by
24 parcel number or numbers and street address;

25 (ii) The name and address and daytime phone number of a contact
26 person;

27 (iii) A statement that the proposed environmental remedial actions
28 will be conducted by the department of ecology or its authorized
29 contractor under chapter 70.105D RCW or will be substantially
30 equivalent to a department of ecology-conducted or supervised remedial
31 action under the model toxics control act, chapter 70.105D RCW, or will
32 be conducted by the United States environmental protection agency or
33 its authorized contractor or will be consistent with the national
34 contingency plan under 42 U.S.C. Sec. 9605 as it exists on July 1,
35 1998; and

36 (iv) A description of the proposed environmental remedial actions
37 to be taken; and

1 (b)(i) A certification from a certified underground storage tank
2 service supervisor as authorized in chapter 90.76 RCW, from a
3 professional engineer licensed in the state of Washington, or from an
4 environmental professional who subscribes to a code of professional
5 responsibility administered by a recognized organization representing
6 such professions containing the following information:

7 (A) Confirmation that an environmental remedial action as defined
8 in this section is to be conducted at the site;

9 (B) The location of the site, shown on a map and identified by
10 parcel number or numbers and street address, and the approximate
11 location of the proposed environmental remedial action; and

12 (C) The name, address, telephone number, and uniform business
13 identifier of the person providing the certification; or

14 (ii) If applicable to the site, a copy of an enforcement order,
15 agreed order, or consent decree executed by the department of ecology
16 or the United States environmental protection agency.

17 (4) The department of revenue shall respond in writing to the owner
18 within thirty days confirming receipt of the certification, or
19 certifications, of eligibility. Under RCW 82.32.330(3)(m),
20 certification is subject to disclosure and copies may be obtained from
21 the department upon request. The request shall be in writing and shall
22 identify the site by county and parcel number or numbers.

23 (5) The owner shall provide a copy of the confirmation from the
24 department of revenue to each person who renders environmental remedial
25 action at the site. Each person who renders such action shall
26 separately state the charges for labor and services associated with the
27 environmental remedial action.

28 (6) Upon completion of the environmental remedial action, the owner
29 shall submit to the department of ecology a report documenting the
30 environmental remedial actions conducted at the site and documenting
31 compliance with the requirements of chapter 70.105D RCW.

32 (7) In addition to any other penalties, a person who files a
33 certificate with the department of ecology or the department of revenue
34 that contains falsehoods or misrepresentations are subject to penalties
35 authorized under chapter 18.43 or 90.76 RCW or RCW 9A.76.175. Also, a
36 person who improperly reports the person's tax class shall be assessed
37 a penalty of fifty percent of the tax due, in addition to other taxes
38 or penalties, together with interest. The department of revenue shall

1 waive the penalty imposed under this section if it finds that the
2 falsehoods or misrepresentations or improper reporting of the tax
3 classification was due to circumstances beyond the control of the
4 person.

5 (8) This section expires July 1, (~~2003~~) 2007.

6 **Sec. 4.** RCW 82.04.312 and 1998 c 316 s 1 are each amended to read
7 as follows:

8 (1) This chapter does not apply to amounts received for water
9 services supplied by a water-sewer district established under Title 57
10 RCW or by an irrigation district established under Title 87 RCW that:

- 11 (a) Has less than one thousand five hundred connections; and
- 12 (b) Charges residential water rates that exceed one hundred twenty-
13 five percent of the statewide average residential water rate published
14 on or before July 1st of each year by the department of health.

15 (2) This chapter does not apply to amounts received for water
16 services supplied by a water system that:

- 17 (a) Is operated or owned by a qualified satellite management agency
18 under RCW 70.116.134;
- 19 (b) Has less than two hundred connections; and
- 20 (c) Charges residential water rates that exceed one hundred twenty-
21 five percent of the statewide average residential water rate published
22 on or before July 1st of each year by the department of health.

23 (3) To receive an exemption under this section, the water system or
24 irrigation district shall supply to the department of revenue proof
25 that an amount equal to at least ninety percent of the value of the
26 exemption shall be expended to repair, equip, maintain, and upgrade the
27 water system.

28 (4) The department of health may use rate information provided in
29 surveys and reports produced by the association of Washington cities,
30 an association of elected officials, or other municipal association to
31 estimate a statewide average residential water rate.

32 (5) This section expires July 1, (~~2004~~) 2008.

33 **Sec. 5.** RCW 82.16.042 and 1998 c 316 s 2 are each amended to read
34 as follows:

35 (1) This chapter does not apply to amounts received for water

1 services supplied by a water-sewer district established under Title 57
2 RCW or by an irrigation district established under Title 87 RCW that:

3 (a) Has less than one thousand five hundred connections; and

4 (b) Charges residential water rates that exceed one hundred twenty-
5 five percent of the statewide average residential water rate published
6 on or before July 1st of each year by the department of health.

7 (2) This chapter does not apply to amounts received for water
8 services supplied by a water system that:

9 (a) Is operated or owned by a qualified satellite management agency
10 under RCW 70.116.134;

11 (b) Has less than two hundred connections; and

12 (c) Charges residential water rates that exceed one hundred twenty-
13 five percent of the statewide average residential water rate.

14 (3) To receive an exemption under this section, the water system or
15 irrigation district shall supply to the department of revenue proof
16 that an amount equal to at least ninety percent of the value of the
17 exemption shall be expended to repair, equip, maintain, and upgrade the
18 water system.

19 (4) For the purposes of this section, "statewide average
20 residential water rate" means the statewide average residential water
21 rate published under RCW 82.04.312.

22 (5) This section expires July 1, (~~2004~~) 2008.

23 **Sec. 6.** RCW 82.04.4452 and 2000 c 103 s 7 are each amended to read
24 as follows:

25 (1) In computing the tax imposed under this chapter, a credit is
26 allowed for each person whose research and development spending during
27 the year in which the credit is claimed exceeds 0.92 percent of the
28 person's taxable amount during the same calendar year.

29 (2) The credit is equal to the greater of the amount of qualified
30 research and development expenditures of a person or eighty percent of
31 amounts received by a person other than a public educational or
32 research institution in compensation for the conduct of qualified
33 research and development, multiplied by the rate provided in RCW
34 82.04.260(3) in the case of a nonprofit corporation or nonprofit
35 association engaging within this state in research and development, and
36 the rate provided in RCW 82.04.290(2) for every other person.

1 (3) Any person entitled to the credit provided in subsection (2) of
2 this section as a result of qualified research and development
3 conducted under contract may assign all or any portion of the credit to
4 the person contracting for the performance of the qualified research
5 and development.

6 (4) The credit, including any credit assigned to a person under
7 subsection (3) of this section, shall be taken against taxes due for
8 the same calendar year in which the qualified research and development
9 expenditures are incurred. The credit, including any credit assigned
10 to a person under subsection (3) of this section, for each calendar
11 year shall not exceed the lesser of two million dollars or the amount
12 of tax otherwise due under this chapter for the calendar year.

13 (5) Any person taking the credit, including any credit assigned to
14 a person under subsection (3) of this section, whose research and
15 development spending during the calendar year in which the credit is
16 claimed fails to exceed 0.92 percent of the person's taxable amount
17 during the same calendar year shall be liable for payment of the
18 additional taxes represented by the amount of credit taken together
19 with interest, but not penalties. Interest shall be due at the rate
20 provided for delinquent excise taxes retroactively to the date the
21 credit was taken until the taxes are paid. Any credit assigned to a
22 person under subsection (3) of this section that is disallowed as a
23 result of this section may be taken by the person who performed the
24 qualified research and development subject to the limitations set forth
25 in subsection (4) of this section.

26 (6) Any person claiming the credit, and any person assigning a
27 credit as provided in subsection (3) of this section, shall file an
28 affidavit form prescribed by the department which shall include the
29 amount of the credit claimed, an estimate of the anticipated qualified
30 research and development expenditures during the calendar year for
31 which the credit is claimed, an estimate of the taxable amount during
32 the calendar year for which the credit is claimed, and such additional
33 information as the department may prescribe.

34 (7) A person claiming the credit shall agree to supply the
35 department with information necessary to measure the results of the tax
36 credit program for qualified research and development expenditures.

37 (8) The department shall use the information required under
38 subsection (7) of this section to perform three assessments on the tax

1 credit program authorized under this section. The assessments will
2 take place in 1997, 2000, and 2003. The department shall prepare
3 reports on each assessment and deliver their reports by September 1,
4 1997, September 1, 2000, and September 1, 2003. The assessments shall
5 measure the effect of the program on job creation, the number of jobs
6 created for Washington residents, company growth, the introduction of
7 new products, the diversification of the state's economy, growth in
8 research and development investment, the movement of firms or the
9 consolidation of firms' operations into the state, and such other
10 factors as the department selects.

11 (9) For the purpose of this section:

12 (a) "Qualified research and development expenditures" means
13 operating expenses, including wages, compensation of a proprietor or a
14 partner in a partnership as determined under rules adopted by the
15 department, benefits, supplies, and computer expenses, directly
16 incurred in qualified research and development by a person claiming the
17 credit provided in this section. The term does not include amounts
18 paid to a person other than a public educational or research
19 institution to conduct qualified research and development. Nor does
20 the term include capital costs and overhead, such as expenses for land,
21 structures, or depreciable property.

22 (b) "Qualified research and development" shall have the same
23 meaning as in RCW 82.63.010.

24 (c) "Research and development spending" means qualified research
25 and development expenditures plus eighty percent of amounts paid to a
26 person other than a public educational or research institution to
27 conduct qualified research and development.

28 (d) "Taxable amount" means the taxable amount subject to the tax
29 imposed in this chapter required to be reported on the person's
30 combined excise tax returns during the year in which the credit is
31 claimed, less any taxable amount for which a credit is allowed under
32 RCW 82.04.440.

33 (10) This section expires (~~December 31, 2004~~) January 1, 2009.

34 **Sec. 7.** RCW 82.04.4456 and 2000 c 106 s 11 are each amended to
35 read as follows:

36 (1) Subject to the limits and provisions of this section, a credit

1 is authorized against the tax otherwise due under this chapter for
2 persons engaged in a rural county in the business of manufacturing
3 software or programming, as those terms are defined in this section.

4 (2) A person who partially or totally relocates a business from one
5 rural county to another rural county is eligible for any qualifying new
6 jobs created as a result of the relocation but is not eligible to
7 receive credit for the jobs moved from one county to the other.

8 (3)(a) To qualify for the credit, the qualifying activity of the
9 person must be conducted in a rural county and the qualified employment
10 position must be located in the rural county.

11 (b) If an activity is conducted both from a rural county and
12 outside of a rural county, the credit is available if at least ninety
13 percent of the qualifying activity is conducted within a rural county.
14 If the qualifying activity is a service taxable activity, the place
15 where the work is performed is the place at which the activity is
16 conducted.

17 (4)(a) The credit under this section shall equal one thousand
18 dollars for each qualified employment position created after July 1,
19 1999, in an eligible area. A credit is earned for the calendar year
20 the person is hired to fill the position. Additionally a credit is
21 earned for each year the position is maintained over the subsequent
22 consecutive years, up to four years. The county must meet the
23 definition of a rural county at the time the position is filled. If
24 the county does not have a rural county status the following year or
25 years, the position is still eligible for the remaining years if all
26 other conditions are met.

27 (b) Credit may not be taken for hiring of persons into positions
28 that exist before July 1, 1999. Credit is authorized for new employees
29 hired for new positions created on or after July 1, 1999. New
30 positions filled by existing employees are eligible for the credit
31 under this section only if the position vacated by the existing
32 employee is filled by a new hire. A business that is a sole
33 proprietorship without any employees is equivalent to one employee
34 position and this type of business is eligible to receive credit for
35 one position.

36 (c) If a position is filled before July 1st, this position is
37 eligible for the full yearly credit for that calendar year. If it is

1 filled after June 30th, this position is eligible for half of the
2 credit for that calendar year.

3 (d) A person that has engaged in qualifying activities in the rural
4 county before August 1, 1999, qualifies for the credit under this
5 section for positions created and filled after August 1, 1999.

6 (5) No application is necessary for the tax credit. The person
7 must keep records necessary for the department to verify eligibility
8 under this section. This information includes information relating to
9 description of qualifying activity conducted in the rural county and
10 outside the rural county by the person as well as detailed records on
11 positions and employees.

12 (6) If at any time the department finds that a person is not
13 eligible for tax credit under this section, the amount of taxes for
14 which a credit has been claimed shall be immediately due. The
15 department shall assess interest, but not penalties, on the taxes for
16 which the person is not eligible. The interest shall be assessed at
17 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
18 shall be assessed retroactively to the date the tax credit was taken,
19 and shall accrue until the taxes for which a credit has been used are
20 repaid.

21 (7) The credit under this section may be used against any tax due
22 under this chapter, but in no case may a credit earned during one
23 calendar year be carried over to be credited against taxes incurred in
24 a subsequent calendar year. A person is not eligible to receive a
25 credit under this section if the person is receiving credit for the
26 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
27 the credit under RCW 82.04.4457. No refunds may be granted for credits
28 under this section.

29 (8) A person taking tax credits under this section shall make an
30 annual report to the department. The report shall be in a letter form
31 and shall include the following information: Number of positions for
32 which credit is being claimed, type of position for which credit is
33 being claimed, type of activity in which the person is engaged in the
34 county, how long the person has been located in the county, and
35 taxpayer name and registration number. The report must be filed by
36 January 30th of each year for which credit was claimed during the
37 previous year. Failure to file a report will not result in the loss of
38 eligibility under this section. However, the department, through its

1 research division, shall contact taxpayers who have not filed the
2 report and obtain the data from the taxpayer or assist the taxpayer in
3 the filing of the report, so that the data and information necessary to
4 measure the program's effectiveness is maintained.

5 (9) Transfer of ownership does not affect credit eligibility.
6 However, the successive credits are available to the successor for
7 remaining periods in the five years only if the eligibility conditions
8 of this section are met.

9 (10) As used in this section:

10 (a) "Manufacturing" means the same as "to manufacture" under RCW
11 82.04.120. Manufacturing includes the activities of both manufacturers
12 and processors for hire.

13 (b) "Programming" means the activities that involve the creation or
14 modification of software, as that term is defined in this chapter, and
15 that are taxable as a service under RCW 82.04.290(2) or as a retail
16 sale under RCW 82.04.050.

17 (c) "Qualifying activity" means manufacturing of software or
18 programming.

19 (d) "Qualified employment position" means a permanent full-time
20 position doing programming of software or manufacturing of software.
21 This excludes administrative, professional, service, executive, and
22 other similar positions. If an employee is either voluntarily or
23 involuntarily separated from employment, the employment position is
24 considered filled on a full-time basis if the employer is either
25 training or actively recruiting a replacement employee. Full-time
26 means a position for at least thirty-five hours a week.

27 (e) "Rural county" means a county with a population density of less
28 than one hundred persons per square mile as determined by the office of
29 financial management and published each year by the department for the
30 period July 1st to June 30th.

31 (f) "Software" has the same meaning as defined in RCW 82.04.215.

32 (11) No credit may be taken or accrued under this section on or
33 after January 1, 2004.

34 (12) This section expires (~~December 31, 2003~~) January 1, 2008.

35 **Sec. 8.** RCW 82.04.4457 and 2000 c 106 s 12 are each amended to
36 read as follows:

37 (1) Subject to the limits and provisions of this section, a credit

1 is authorized against the tax otherwise due under this chapter for
2 persons engaged in a rural county in the business of providing
3 information technology help desk services to third parties.

4 (2) To qualify for the credit, the help desk services must be
5 conducted from a rural county.

6 (3) The amount of the tax credit for persons engaged in the
7 activity of providing information technology help desk services in
8 rural counties shall be equal to one hundred percent of the amount of
9 tax due under this chapter that is attributable to providing the
10 services from the rural county. In order to qualify for the credit
11 under this subsection, the county must meet the definition of rural
12 county at the time the person begins to conduct qualifying business in
13 the county.

14 (4) No application is necessary for the tax credit. The person
15 must keep records necessary for the department to verify eligibility
16 under this section. These records include information relating to
17 description of activity engaged in a rural county by the person.

18 (5) If at any time the department finds that a person is not
19 eligible for tax credit under this section, the amount of taxes for
20 which a credit has been used is immediately due. The department shall
21 assess interest, but not penalties, on the credited taxes for which the
22 person is not eligible. The interest shall be assessed at the rate
23 provided for delinquent excise taxes under chapter 82.32 RCW, shall be
24 assessed retroactively to the date the tax credit was taken, and shall
25 accrue until the taxes for which a credit has been used are repaid.

26 (6) The credit under this section may be used against any tax due
27 under this chapter, but in no case may a credit earned during one
28 calendar year be carried over to be credited against taxes incurred in
29 a subsequent calendar year. No refunds may be granted for credits
30 under this section.

31 (7) A person taking tax credits under this section shall make an
32 annual report to the department. The report shall be in a letter form
33 and shall include the following information: Type of activity in which
34 the person is engaged in the county, number of employees in the rural
35 county, how long the person has been located in the county, and
36 taxpayer name and registration number. The report must be filed by
37 January 30th of each year for which credit was claimed during the
38 previous year. Failure to file a report will not result in the loss of

1 eligibility under this section. However, the department, through its
2 research division, shall contact taxpayers who have not filed the
3 report and obtain the data from the taxpayer or assist the taxpayer in
4 the filing of the report, so that the data and information necessary to
5 measure the program's effectiveness is maintained.

6 (8) Transfer of ownership does not affect credit eligibility.
7 However, the credit is available to the successor only if the
8 eligibility conditions of this section are met.

9 (9) As used in this section:

10 (a) "Information technology help desk services" means the following
11 services performed using electronic and telephonic communication:

- 12 (i) Software and hardware maintenance;
- 13 (ii) Software and hardware diagnostics and troubleshooting;
- 14 (iii) Software and hardware installation;
- 15 (iv) Software and hardware repair;
- 16 (v) Software and hardware information and training; and
- 17 (vi) Software and hardware upgrade.

18 (b) "Rural county" means a county with a population density of less
19 than one hundred persons per square mile, as determined by the office
20 of financial management and published each year by the department for
21 the period July 1st to June 30th.

22 (10) This section expires (~~December 31, 2003~~) January 1, 2008.

23 **Sec. 9.** RCW 82.60.040 and 1999 c 164 s 302 are each amended to
24 read as follows:

25 (1) The department shall issue a sales and use tax deferral
26 certificate for state and local sales and use taxes due under chapters
27 82.08, 82.12, and 82.14 RCW on each eligible investment project that is
28 located in an eligible area as defined in RCW 82.60.020.

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

31 (3) This section expires July 1, (~~2004~~) 2008.

32 **Sec. 10.** RCW 82.60.050 and 1994 sp.s. c 1 s 7 are each amended to
33 read as follows:

34 RCW 82.60.030 and 82.60.040 shall expire July 1, (~~2004~~) 2008.

1 **Sec. 11.** RCW 82.63.030 and 1994 sp.s. c 5 s 5 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (2) of this section, the
4 department shall issue a sales and use tax deferral certificate for
5 state and local sales and use taxes due under chapters 82.08, 82.12,
6 and 82.14 RCW on each eligible investment project.

7 (2) No certificate may be issued for an investment project that has
8 already received a deferral under chapter 82.60 or 82.61 RCW or this
9 chapter, except that an investment project for qualified research and
10 development that has already received a deferral may also receive an
11 additional deferral certificate for adapting the investment project for
12 use in pilot scale manufacturing.

13 (3) This section shall expire July 1, (~~2004~~) 2008.

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