
HOUSE BILL 1980

State of Washington

59th Legislature

2005 Regular Session

By Representatives McIntire and Orcutt; by request of Department of Revenue

Read first time 02/14/2005. Referred to Committee on Finance.

1 AN ACT Relating to revisions in Title 82 RCW resulting in no fiscal
2 impact; amending RCW 82.04.180, 82.04.290, 82.04.2908, 82.04.4281,
3 82.04.4461, 82.04.530, 82.08.0266, 82.08.02665, 82.08.02745,
4 82.08.0283, 82.08.945, 82.12.0277, 82.12.0284, 82.12.035, 82.12.945,
5 82.14.055, 82.14B.020, 82.19.010, 82.29A.130, 82.32.033, 82.32.105,
6 82.32.140, 82.32.520, 82.32.555, and 82.45.150; amending 2004 c 153 s
7 502 (uncodified); reenacting and amending RCW 82.04.260, 82.04.440,
8 82.14B.030, and 82.32.330; repealing RCW 82.29A.150; and providing a
9 contingent expiration date.

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

11 **Sec. 1.** RCW 82.04.180 and 2003 1st sp.s. c 13 s 11 are each
12 amended to read as follows:

13 (1) "Successor" means:

14 (a) Any person to whom a taxpayer quitting, selling out,
15 exchanging, or disposing of a business sells or otherwise conveys,
16 directly or indirectly, in bulk and not in the ordinary course of the
17 taxpayer's business, more than fifty percent of the fair market value
18 of either the (i) tangible assets or (ii) intangible assets of the
19 taxpayer; or

1 (b) A surviving corporation of a statutory merger.

2 (2) Any person obligated to fulfill the terms of a contract shall
3 be deemed a successor to any contractor defaulting in the performance
4 of any contract as to which such person is a surety or guarantor.

5 (3) For the purposes of this section, neither "tangible assets" nor
6 "intangible assets" includes any interest in real property.

7 **Sec. 2.** RCW 82.04.260 and 2003 2nd sp.s. c 1 s 4 and 2003 2nd
8 sp.s. c 1 s 3 are each reenacted and amended to read as follows:

9 (1) Upon every person engaging within this state in the business of
10 manufacturing:

11 (a) Wheat into flour, barley into pearl barley, soybeans into
12 soybean oil, canola into canola oil, canola meal, or canola byproducts,
13 or sunflower seeds into sunflower oil; as to such persons the amount of
14 tax with respect to such business shall be equal to the value of the
15 flour, pearl barley, oil, canola meal, or canola byproduct
16 manufactured, multiplied by the rate of 0.138 percent;

17 (b) Seafood products which remain in a raw, raw frozen, or raw
18 salted state at the completion of the manufacturing by that person; as
19 to such persons the amount of tax with respect to such business shall
20 be equal to the value of the products manufactured, multiplied by the
21 rate of 0.138 percent;

22 (c) By canning, preserving, freezing, processing, or dehydrating
23 fresh fruits and vegetables, or selling at wholesale fresh fruits and
24 vegetables canned, preserved, frozen, processed, or dehydrated by the
25 seller and sold to purchasers who transport in the ordinary course of
26 business the goods out of this state; as to such persons the amount of
27 tax with respect to such business shall be equal to the value of the
28 products ~~((canned, preserved, frozen, processed, or dehydrated))~~
29 manufactured or the gross proceeds derived from such sales multiplied
30 by the rate of 0.138 percent. As proof of sale to a person who
31 transports in the ordinary course of business goods out of this state,
32 the seller shall annually provide a statement in a form prescribed by
33 the department and retain the statement as a business record;

34 (d) Dairy products that as of September 20, 2001, are identified in
35 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
36 from the manufacturing of the dairy products such as whey and casein;
37 or selling the same to purchasers who transport in the ordinary course

1 of business the goods out of state; as to such persons the tax imposed
2 shall be equal to the value of the products manufactured or the gross
3 proceeds derived from such sales multiplied by the rate of 0.138
4 percent. As proof of sale to a person who transports in the ordinary
5 course of business goods out of this state, the seller shall annually
6 provide a statement in a form prescribed by the department and retain
7 the statement as a business record;

8 (e) Alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those
9 terms are defined in RCW 82.29A.135; as to such persons the amount of
10 tax with respect to the business shall be equal to the value of alcohol
11 fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied
12 by the rate of 0.138 percent. This subsection (1)(e) expires July 1,
13 2009; and

14 (f) Alcohol fuel or wood biomass fuel, as those terms are defined
15 in RCW 82.29A.135; as to such persons the amount of tax with respect to
16 the business shall be equal to the value of alcohol fuel or wood
17 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

18 (2) Upon every person engaging within this state in the business of
19 splitting or processing dried peas; as to such persons the amount of
20 tax with respect to such business shall be equal to the value of the
21 peas split or processed, multiplied by the rate of 0.138 percent.

22 (3) Upon every nonprofit corporation and nonprofit association
23 engaging within this state in research and development, as to such
24 corporations and associations, the amount of tax with respect to such
25 activities shall be equal to the gross income derived from such
26 activities multiplied by the rate of 0.484 percent.

27 (4) Upon every person engaging within this state in the business of
28 slaughtering, breaking and/or processing perishable meat products
29 and/or selling the same at wholesale only and not at retail; as to such
30 persons the tax imposed shall be equal to the gross proceeds derived
31 from such sales multiplied by the rate of 0.138 percent.

32 (5) Upon every person engaging within this state in the business of
33 making sales, at retail or wholesale, of nuclear fuel assemblies
34 manufactured by that person, as to such persons the amount of tax with
35 respect to such business shall be equal to the gross proceeds of sales
36 of the assemblies multiplied by the rate of 0.275 percent.

37 (6) Upon every person engaging within this state in the business of

1 manufacturing nuclear fuel assemblies, as to such persons the amount of
2 tax with respect to such business shall be equal to the value of the
3 products manufactured multiplied by the rate of 0.275 percent.

4 (7) Upon every person engaging within this state in the business of
5 acting as a travel agent or tour operator; as to such persons the
6 amount of the tax with respect to such activities shall be equal to the
7 gross income derived from such activities multiplied by the rate of
8 0.275 percent.

9 (8) Upon every person engaging within this state in business as an
10 international steamship agent, international customs house broker,
11 international freight forwarder, vessel and/or cargo charter broker in
12 foreign commerce, and/or international air cargo agent; as to such
13 persons the amount of the tax with respect to only international
14 activities shall be equal to the gross income derived from such
15 activities multiplied by the rate of 0.275 percent.

16 (9) Upon every person engaging within this state in the business of
17 stevedoring and associated activities pertinent to the movement of
18 goods and commodities in waterborne interstate or foreign commerce; as
19 to such persons the amount of tax with respect to such business shall
20 be equal to the gross proceeds derived from such activities multiplied
21 by the rate of 0.275 percent. Persons subject to taxation under this
22 subsection shall be exempt from payment of taxes imposed by chapter
23 82.16 RCW for that portion of their business subject to taxation under
24 this subsection. Stevedoring and associated activities pertinent to
25 the conduct of goods and commodities in waterborne interstate or
26 foreign commerce are defined as all activities of a labor, service or
27 transportation nature whereby cargo may be loaded or unloaded to or
28 from vessels or barges, passing over, onto or under a wharf, pier, or
29 similar structure; cargo may be moved to a warehouse or similar holding
30 or storage yard or area to await further movement in import or export
31 or may move to a consolidation freight station and be stuffed,
32 unstuffed, containerized, separated or otherwise segregated or
33 aggregated for delivery or loaded on any mode of transportation for
34 delivery to its consignee. Specific activities included in this
35 definition are: Wharfage, handling, loading, unloading, moving of
36 cargo to a convenient place of delivery to the consignee or a
37 convenient place for further movement to export mode; documentation
38 services in connection with the receipt, delivery, checking, care,

1 custody and control of cargo required in the transfer of cargo;
2 imported automobile handling prior to delivery to consignee; terminal
3 stevedoring and incidental vessel services, including but not limited
4 to plugging and unplugging refrigerator service to containers,
5 trailers, and other refrigerated cargo receptacles, and securing ship
6 hatch covers.

7 (10) Upon every person engaging within this state in the business
8 of disposing of low-level waste, as defined in RCW 43.145.010; as to
9 such persons the amount of the tax with respect to such business shall
10 be equal to the gross income of the business, excluding any fees
11 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
12 percent.

13 If the gross income of the taxpayer is attributable to activities
14 both within and without this state, the gross income attributable to
15 this state shall be determined in accordance with the methods of
16 apportionment required under RCW 82.04.460.

17 (11) Upon every person engaging within this state as an insurance
18 agent, insurance broker, or insurance solicitor licensed under chapter
19 48.17 RCW; as to such persons, the amount of the tax with respect to
20 such licensed activities shall be equal to the gross income of such
21 business multiplied by the rate of 0.484 percent.

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

31 (13)(a) Beginning October 1, 2005, upon every person engaging
32 within this state in the business of manufacturing commercial
33 airplanes, or components of such airplanes, as to such persons the
34 amount of tax with respect to such business shall, in the case of
35 manufacturers, be equal to the value of the product manufactured, or in
36 the case of processors for hire, be equal to the gross income of the
37 business, multiplied by the rate of:

1 (i) 0.4235 percent from October 1, 2005, through the later of June
2 30, 2007, or the day preceding the date final assembly of a
3 superefficient airplane begins in Washington state, as determined under
4 RCW 82.32.550; and

5 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
6 date final assembly of a superefficient airplane begins in Washington
7 state, as determined under RCW 82.32.550.

8 (b) Beginning October 1, 2005, upon every person engaging within
9 this state in the business of making sales, at retail or wholesale, of
10 commercial airplanes, or components of such airplanes, manufactured by
11 that person, as to such persons the amount of tax with respect to such
12 business shall be equal to the gross proceeds of sales of the airplanes
13 or components multiplied by the rate of:

14 (i) 0.4235 percent from October 1, 2005, through the later of June
15 30, 2007, or the day preceding the date final assembly of a
16 superefficient airplane begins in Washington state, as determined under
17 RCW 82.32.550; and

18 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
19 date final assembly of a superefficient airplane begins in Washington
20 state, as determined under RCW 82.32.550.

21 (c) For the purposes of this subsection (13), "commercial
22 airplane," "component," and "final assembly of a superefficient
23 airplane" have the meanings given in RCW 82.32.550.

24 (d) In addition to all other requirements under this title, a
25 person eligible for the tax rate under this subsection (13) must report
26 as required under RCW 82.32.545.

27 (e) This subsection (13) does not apply after the earlier of: July
28 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
29 does not begin by December 31, 2007, as determined under RCW 82.32.550.

30 **Sec. 3.** RCW 82.04.290 and 2004 c 174 s 2 are each amended to read
31 as follows:

32 (1) Upon every person engaging within this state in the business of
33 providing international investment management services, as to such
34 persons, the amount of tax with respect to such business shall be equal
35 to the gross income or gross proceeds of sales of the business
36 multiplied by a rate of 0.275 percent.

1 (2) Upon every person engaging within this state in any business
2 activity other than or in addition to (~~those enumerated in RCW~~
3 ~~82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,~~
4 ~~82.04.298, 82.04.2905, 82.04.280, 82.04.2907, 82.04.272, 82.04.2906,~~
5 ~~and 82.04.2908, and~~) an activity taxed explicitly under another
6 section in this chapter or subsection (1) of this section; as to such
7 persons the amount of tax on account of such activities shall be equal
8 to the gross income of the business multiplied by the rate of 1.5
9 percent.

10 (3) Subsection (2) of this section includes, among others, and
11 without limiting the scope hereof (whether or not title to materials
12 used in the performance of such business passes to another by
13 accession, confusion or other than by outright sale), persons engaged
14 in the business of rendering any type of service which does not
15 constitute a "sale at retail" or a "sale at wholesale." The value of
16 advertising, demonstration, and promotional supplies and materials
17 furnished to an agent by his principal or supplier to be used for
18 informational, educational and promotional purposes shall not be
19 considered a part of the agent's remuneration or commission and shall
20 not be subject to taxation under this section.

21 **Sec. 4.** RCW 82.04.2908 and 2004 c 174 s 1 are each amended to read
22 as follows:

23 (1) Upon every person engaging within this state in the business of
24 providing room and (~~domiciliary care~~) authorized services to
25 residents of a boarding home licensed under chapter 18.20 RCW, the
26 amount of tax with respect to such business shall be equal to the gross
27 income (~~from such services~~) of the business multiplied by the rate of
28 0.275 percent.

29 (2) If the persons described in subsection (1) of this section
30 receive income from sources other than those described in subsection
31 (1) of this section or provide services other than those named in
32 subsection (1) of this section, that income and those services are
33 subject to tax as otherwise provided in this chapter.

34 (3) (~~"Domiciliary care" has the same meaning as in RCW 18.20.020~~)
35 "Authorized services" means those services that a boarding home is
36 authorized under chapter 18.20 RCW to provide to its residents.

1 **Sec. 5.** RCW 82.04.4281 and 2002 c 150 s 2 are each amended to read
2 as follows:

3 (1) In computing tax there may be deducted from the measure of tax:

4 (a) Amounts derived from investments;

5 (b) Amounts derived as dividends or distributions from (~~{the}~~)
6 the capital account by a parent from its subsidiary entities; and

7 (c) Amounts derived from interest on loans between subsidiary
8 entities and a parent entity or between subsidiaries of a common parent
9 entity, but only if the total investment and loan income is less than
10 five percent of gross receipts of the business annually.

11 (2) The following are not deductible under subsection (1)(a) of
12 this section:

13 (a) Amounts received from loans, except as provided in subsection
14 (1)(c) of this section, or the extension of credit to another,
15 revolving credit arrangements, installment sales, the acceptance of
16 payment over time for goods or services, or any of the foregoing that
17 have been transferred by the originator of the same to an affiliate of
18 the transferor; or

19 (b) Amounts received by a banking, lending, or security business.

20 (3) The definitions in this subsection apply only to this section.

21 (a) "Banking business" means a person engaging in business as a
22 national or state-chartered bank, a mutual savings bank, a savings and
23 loan association, a trust company, an alien bank, a foreign bank, a
24 credit union, a stock savings bank, or a similar entity that is
25 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title
26 12 U.S.C.

27 (b) "Lending business" means a person engaged in the business of
28 making secured or unsecured loans of money, or extending credit, and
29 (i) more than one-half of the person's gross income is earned from such
30 activities and (ii) more than one-half of the person's total
31 expenditures are incurred in support of such activities.

32 (c) The terms "loan" and "extension of credit" do not include
33 ownership of or trading in publicly traded debt instruments, or
34 substantially equivalent instruments offered in a private placement.

35 (d) "Security business" means a person, other than an issuer, who
36 is engaged in the business of effecting transactions in securities as
37 a broker, dealer, or broker-dealer, as those terms are defined in the
38 securities act of Washington, chapter 21.20 RCW, or the federal

1 securities act of 1933. "Security business" does not include any
2 company excluded from the definition of broker or dealer under the
3 federal investment company act of 1940 or any entity that is not an
4 investment company by reason of sections 3(c)(1) and 3(c)(3) through
5 3(c)(14) thereof.

6 **Sec. 6.** RCW 82.04.440 and 2004 c 174 s 5 and 2004 c 24 s 7 are
7 each reenacted and amended to read as follows:

8 (1) Every person engaged in activities (~~(which)~~) that are (~~(within~~
9 ~~the purview of the provisions of two or more of sections)~~) subject to
10 tax under two or more provisions of RCW 82.04.230 to 82.04.298,
11 inclusive, shall be taxable under each (~~(paragraph)~~) provision
12 applicable to (~~(the)~~) those activities (~~(engaged in)~~).

13 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,
14 or 82.04.260 (1)(c) or (d), (4), (5), or (13) with respect to selling
15 products in this state shall be allowed a credit against those taxes
16 for any (a) manufacturing taxes paid with respect to the manufacturing
17 of products so sold in this state, and/or (b) extracting taxes paid
18 with respect to the extracting of products so sold in this state or
19 ingredients of products so sold in this state. Extracting taxes taken
20 as credit under subsection (3) of this section may also be taken under
21 this subsection, if otherwise allowable under this subsection. The
22 amount of the credit shall not exceed the tax liability arising under
23 this chapter with respect to the sale of those products.

24 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be
25 allowed a credit against those taxes for any extracting taxes paid with
26 respect to extracting the ingredients of the products so manufactured
27 in this state. The amount of the credit shall not exceed the tax
28 liability arising under this chapter with respect to the manufacturing
29 of those products.

30 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),
31 or 82.04.260 (1), (2), (4), (6), or (13) with respect to extracting or
32 manufacturing products in this state shall be allowed a credit against
33 those taxes for any (i) gross receipts taxes paid to another state with
34 respect to the sales of the products so extracted or manufactured in
35 this state, (ii) manufacturing taxes paid with respect to the
36 manufacturing of products using ingredients so extracted in this state,
37 or (iii) manufacturing taxes paid with respect to manufacturing

1 activities completed in another state for products so manufactured in
2 this state. The amount of the credit shall not exceed the tax
3 liability arising under this chapter with respect to the extraction or
4 manufacturing of those products.

5 (5) For the purpose of this section:

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

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

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

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

17 (c) "Manufacturing tax" means a gross receipts tax imposed on the
18 act or privilege of engaging in business as a manufacturer, and
19 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1), and
20 82.04.260 (1), (2), (4), (6), and (13), and (ii) similar gross receipts
21 taxes paid to other states.

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

26 (e) "Business", "manufacturer", "extractor", and other terms used
27 in this section have the meanings given in RCW 82.04.020 through
28 82.04.212, notwithstanding the use of those terms in the context of
29 describing taxes imposed by other states.

30 **Sec. 7.** RCW 82.04.4461 and 2003 2nd sp.s. c 1 s 7 are each amended
31 to read as follows:

32 (1)(a) In computing the tax imposed under this chapter, a credit is
33 allowed for each person for qualified preproduction development
34 (~~(spending)~~) expenditures occurring after December 1, 2003.

35 (b) Before July 1, 2005, any credits earned under this section must
36 be accrued and carried forward and may not be used until July 1, 2005.

1 These carryover credits may be used at any time thereafter, and may be
2 carried over until used. Refunds may not be granted in the place of a
3 credit.

4 (2) The credit is equal to the amount of qualified preproduction
5 development expenditures of a person, multiplied by the rate of 1.5
6 percent.

7 (3) Except as provided in subsection (1)(b) of this section the
8 credit shall be taken against taxes due for the same calendar year in
9 which the qualified preproduction development expenditures are
10 incurred. Credit earned on or after July 1, 2005, may not be carried
11 over. The credit for each calendar year shall not exceed the amount of
12 tax otherwise due under this chapter for the calendar year. Refunds
13 may not be granted in the place of a credit.

14 (4) Any person claiming the credit shall file an (~~affidavit~~)
15 annual report in a form prescribed by the department that shall include
16 the amount of the credit claimed, an estimate of the anticipated
17 preproduction development expenditures during the calendar year for
18 which the credit is claimed, an estimate of the taxable amount
19 (~~during~~) for the calendar year for which the credit is claimed, and
20 such additional information as the department may prescribe.

21 (5) The definitions in this subsection apply throughout this
22 section.

23 (a) "Aeronautics" means the study of flight and the science of
24 building and operating commercial aircraft.

25 (b) "Person" means a person as defined in RCW 82.04.030, who is a
26 manufacturer or processor for hire of commercial airplanes, or
27 components of such airplanes, as those terms are defined in RCW
28 82.32.550.

29 (c) "Preproduction development" means research, design, and
30 engineering activities performed in relation to the development of a
31 product, product line, model, or model derivative, including prototype
32 development, testing, and certification. The term includes the
33 discovery of technological information, the translating of
34 technological information into new or improved products, processes,
35 techniques, formulas, or inventions, and the adaptation of existing
36 products and models into new products or new models, or derivatives of
37 products or models. The term does not include manufacturing activities
38 or other production-oriented activities, however the term does include

1 tool design and engineering design for the manufacturing process. The
2 term does not include surveys and studies, social science and
3 humanities research, market research or testing, quality control, sale
4 promotion and service, computer software developed for internal use,
5 and research in areas such as improved style, taste, and seasonal
6 design.

7 ~~((("Preproduction development spending" means qualified
8 preproduction development expenditures plus eighty percent of amounts
9 paid to a person other than a public educational or research
10 institution to conduct qualified preproduction development.~~

11 ~~(e))~~ "Qualified preproduction development" means preproduction
12 development performed within this state in the field of aeronautics.

13 ~~((f))~~ (e) "Qualified preproduction development expenditures"
14 means operating expenses, including wages, compensation of a proprietor
15 or a partner in a partnership as determined by the department,
16 benefits, supplies, and computer expenses, directly incurred in
17 qualified preproduction development by a person claiming the credit
18 provided in this section. The term does not include amounts paid to a
19 person, as defined in RCW 82.04.030, other than a public educational or
20 research institution to conduct qualified preproduction development.
21 The term does not include capital costs and overhead, such as expenses
22 for land, structures, or depreciable property.

23 ~~((g))~~ (f) "Taxable amount" means the taxable amount subject to
24 the tax imposed in this chapter required to be reported on the person's
25 tax returns ~~((during))~~ for the calendar year ~~((in))~~ for which the
26 credit is claimed, less any taxable amount for which a credit is
27 allowed under RCW 82.04.440.

28 (6) In addition to all other requirements under this title, a
29 person taking the credit under this section must report as required
30 under RCW 82.32.545.

31 (7) Credit may not be claimed for expenditures for which a credit
32 is claimed under RCW 82.04.4452.

33 (8) This section expires July 1, 2024.

34 **Sec. 8.** RCW 82.04.530 and 2004 c 153 s 410 are each amended to
35 read as follows:

36 For purposes of this chapter, a telephone business other than a
37 mobile telecommunications service provider must calculate gross

1 proceeds of (~~retail~~) sales in a manner consistent with the sourcing
2 rules provided in RCW 82.32.520. The department may adopt rules to
3 implement this section, including rules that provide a formulary method
4 of determining gross proceeds that reasonably approximates the taxable
5 activity of a telephone business.

6 **Sec. 9.** RCW 82.08.0266 and 1999 c 358 s 5 are each amended to read
7 as follows:

8 The tax levied by RCW 82.08.020 shall not apply to sales to
9 nonresidents of this state for use outside of this state of watercraft
10 requiring coast guard registration or registration by the state of
11 principal use according to the Federal Boating Act of 1958, even though
12 delivery be made within this state, but only when (1) the watercraft
13 will not be used within this state for more than forty-five days and
14 (2) an appropriate exemption certificate supported by identification
15 ascertaining residence as required by the department (~~of revenue~~) and
16 signed by the (~~purchaser~~) buyer or (~~his~~) the buyer's agent
17 establishing the fact that the (~~purchaser~~) buyer is a nonresident and
18 that the watercraft is for use outside of this state, a copy of which
19 shall be retained by the (~~dealer~~) seller.

20 **Sec. 10.** RCW 82.08.02665 and 1999 c 358 s 6 are each amended to
21 read as follows:

22 (1) The tax levied by RCW 82.08.020 does not apply to sales of
23 vessels to residents of foreign countries for use outside of this
24 state, even though delivery is made within this state, but only if
25 (~~(1)~~):

26 (a) The vessel will not be used within this state for more than
27 forty-five days; and

28 (~~(2)~~) (b) An appropriate exemption certificate supported by
29 identification as required by the department (~~of revenue~~) and signed
30 by the (~~purchaser~~) buyer or the (~~purchaser's~~) buyer's agent
31 establishes the fact that the (~~purchaser~~) buyer is a resident of a
32 foreign country and that the vessel is for use outside of this state.
33 A copy of the exemption certificate is to be retained by the (~~dealer~~)
34 seller.

35 (2) As used in this section, "vessel" means every watercraft used

1 or capable of being used as a means of transportation on the water,
2 other than a seaplane.

3 **Sec. 11.** RCW 82.08.02745 and 1997 c 438 s 1 are each amended to
4 read as follows:

5 (1) The tax levied by RCW 82.08.020 shall not apply to charges made
6 for labor and services rendered by any person in respect to the
7 constructing, repairing, decorating, or improving of new or existing
8 buildings or other structures used as agricultural employee housing, or
9 to sales of tangible personal property that becomes an ingredient or
10 component of the buildings or other structures during the course of the
11 constructing, repairing, decorating, or improving the buildings or
12 other structures(~~(, but)~~). The exemption is available only if the
13 buyer provides the seller with an exemption certificate in a form and
14 manner prescribed by the department (~~(by rule)~~).

15 (2) The exemption provided in this section for agricultural
16 employee housing provided to year-round employees of the agricultural
17 employer, only applies if that housing is built to the current building
18 code for single-family or multifamily dwellings according to the state
19 building code, chapter 19.27 RCW.

20 (3) Any agricultural employee housing built under this section
21 shall be used according to this section for at least five consecutive
22 years from the date the housing is approved for occupancy, or the full
23 amount of tax otherwise due shall be immediately due and payable
24 together with interest, but not penalties, from the date the housing is
25 approved for occupancy until the date of payment. If at any time
26 agricultural employee housing that is not located on agricultural land
27 ceases to be used in the manner specified in subsection (2) of this
28 section, the full amount of tax otherwise due shall be immediately due
29 and payable with interest, but not penalties, from the date the housing
30 ceases to be used as agricultural employee housing until the date of
31 payment.

32 (4) The exemption provided in this section shall not apply to
33 housing built for the occupancy of an employer, family members of an
34 employer, or persons owning stock or shares in a farm partnership or
35 corporation business.

36 (5) For purposes of this section and RCW 82.12.02685:

1 (a) "Agricultural employee" or "employee" has the same meaning as
2 given in RCW 19.30.010;

3 (b) "Agricultural employer" or "employer" has the same meaning as
4 given in RCW 19.30.010; and

5 (c) "Agricultural employee housing" means all facilities provided
6 by an agricultural employer, housing authority, local government, state
7 or federal agency, nonprofit community or neighborhood-based
8 organization that is exempt from income tax under section 501(c) of the
9 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-profit
10 provider of housing for housing agricultural employees on a year-round
11 or seasonal basis, including bathing, food handling, hand washing,
12 laundry, and toilet facilities, single-family and multifamily dwelling
13 units and dormitories, and includes labor camps under RCW (~~70.54.110~~)
14 70.114A.110. "Agricultural employee housing" does not include housing
15 regularly provided on a commercial basis to the general public.
16 "Agricultural employee housing" does not include housing provided by a
17 housing authority unless at least eighty percent of the occupants are
18 agricultural employees whose adjusted income is less than fifty percent
19 of median family income, adjusted for household size, for the county
20 where the housing is provided.

21 **Sec. 12.** RCW 82.08.0283 and 2004 c 153 s 101 are each amended to
22 read as follows:

23 (1) The tax levied by RCW 82.08.020 shall not apply to sales of:

24 (a) Prosthetic devices prescribed, fitted, or furnished for an
25 individual by a person licensed under the laws of this state to
26 prescribe, fit, or furnish prosthetic devices, and the components of
27 prosthetic devices;

28 (b) Medicines of mineral, animal, and botanical origin prescribed,
29 administered, dispensed, or used in the treatment of an individual by
30 a person licensed under chapter 18.36A RCW; and

31 (c) Medically prescribed oxygen, including, but not limited to,
32 oxygen concentrator systems, oxygen enricher systems, liquid oxygen
33 systems, and gaseous, bottled oxygen systems prescribed for an
34 individual by a person licensed under chapter 18.57 or 18.71 RCW for
35 use in the medical treatment of that individual.

36 (2) In addition, the tax levied by RCW 82.08.020 shall not apply to

1 charges made for labor and services rendered in respect to the
2 repairing, cleaning, altering, or improving of any of the items
3 exempted under subsection (1) of this section.

4 (3) The exemption in subsection (1) of this section shall not apply
5 to sales of durable medical equipment or mobility enhancing equipment.

6 (4) The definitions in this subsection apply throughout this
7 section.

8 (a) "Prosthetic device" means a replacement, corrective, or
9 supportive device, including repair and replacement parts for a
10 prosthetic device, worn on or in the body to:

11 (i) Artificially replace a missing portion of the body;

12 (ii) Prevent or correct a physical deformity or malfunction; or

13 (iii) Support a weak or deformed portion of the body.

14 (b) "Durable medical equipment" means equipment, including repair
15 and replacement parts for durable medical equipment that:

16 (i) Can withstand repeated use;

17 (ii) Is primarily and customarily used to serve a medical purpose;

18 (iii) Generally is not useful to a person in the absence of illness
19 or injury; and

20 (iv) (~~Does not work~~) Is not worn in or on the body.

21 (c) "Mobility enhancing equipment" means equipment, including
22 repair and replacement parts for mobility enhancing equipment that:

23 (i) Is primarily and customarily used to provide or increase the
24 ability to move from one place to another and that is appropriate for
25 use either in a home or a motor vehicle;

26 (ii) Is not generally used by persons with normal mobility; and

27 (iii) Does not include any motor vehicle or equipment on a motor
28 vehicle normally provided by a motor vehicle manufacturer.

29 (d) The terms "durable medical equipment" and "mobility enhancing
30 equipment" are mutually exclusive.

31 **Sec. 13.** RCW 82.08.945 and 2004 c 153 s 110 are each amended to
32 read as follows:

33 The tax levied by RCW 82.08.020 shall not apply to sales of kidney
34 dialysis devices, and the components of such devices, including repair
35 and replacement parts, for human use pursuant to a prescription. In
36 addition, the tax levied by RCW 82.08.020 shall not apply to charges

1 made for labor and services rendered in respect to the repairing,
2 cleaning, altering, or improving of kidney dialysis devices.

3 **Sec. 14.** RCW 82.12.0277 and 2004 c 153 s 109 are each amended to
4 read as follows:

5 (1) The provisions of this chapter shall not apply in respect to
6 the use of:

7 (a) Prosthetic devices prescribed, fitted, or furnished for an
8 individual by a person licensed under the laws of this state to
9 prescribe, fit, or furnish prosthetic devices, and the components of
10 prosthetic devices;

11 (b) Medicines of mineral, animal, and botanical origin prescribed,
12 administered, dispensed, or used in the treatment of an individual by
13 a person licensed under chapter 18.36A RCW; and

14 (c) Medically prescribed oxygen, including, but not limited to,
15 oxygen concentrator systems, oxygen enricher systems, liquid oxygen
16 systems, and gaseous, bottled oxygen systems prescribed for an
17 individual by a person licensed under chapter 18.57 or 18.71 RCW for
18 use in the medical treatment of that individual.

19 (2) In addition, the provisions of this chapter shall not apply in
20 respect to the use of labor and services rendered in respect to the
21 repairing, cleaning, altering, or improving of any of the items
22 exempted under subsection (1) of this section.

23 (3) The exemption provided by subsection (1) of this section shall
24 not apply to the use of durable medical equipment or mobility enhancing
25 equipment.

26 (4) "Prosthetic device," "durable medical equipment," and "mobility
27 enhancing equipment" have the same meanings as in RCW 82.08.0283.

28 **Sec. 15.** RCW 82.12.0284 and 2003 c 168 s 603 are each amended to
29 read as follows:

30 The provisions of this chapter shall not apply in respect to the
31 use of computers, computer components, computer accessories, or
32 computer software irrevocably donated to any public or private
33 nonprofit school or college, as defined under chapter 84.36 RCW, in
34 this state. For purposes of this section, "computer" (~~has~~) and
35 "computer software" have the same meaning as in RCW 82.04.215.

1 **Sec. 16.** RCW 82.12.035 and 2002 c 367 s 5 are each amended to read
2 as follows:

3 A credit shall be allowed against the taxes imposed by this chapter
4 upon the use of tangible personal property, or services taxable under
5 RCW 82.04.050 (2)(a) or (3)(a), in the state of Washington in the
6 amount that the present user thereof or his or her bailor or donor has
7 paid a retail sales or use tax with respect to such property or
8 services to any other state of the United States, any political
9 subdivision thereof, the District of Columbia, and any foreign country
10 or political subdivision thereof, prior to the use of such property or
11 services in Washington.

12 **Sec. 17.** RCW 82.12.945 and 2004 c 153 s 111 are each amended to
13 read as follows:

14 The provisions of this chapter shall not apply to the use of kidney
15 dialysis devices, and the components of such devices, including repair
16 and replacement parts, for human use pursuant to a prescription. In
17 addition, the provisions of this chapter shall not apply in respect to
18 the use of labor and services rendered in respect to the repairing,
19 cleaning, altering, or improving of kidney dialysis devices.

20 **Sec. 18.** RCW 82.14.055 and 2003 c 168 s 206 are each amended to
21 read as follows:

22 (1) Except as provided in subsections (2), (3), and (4) of this
23 section or any other statute, a local (~~(sales and use)~~) tax change
24 shall take effect (a) no sooner than seventy-five days after the
25 department receives notice of the change and (b) only on the first day
26 of January, April, July, or October.

27 (2) In the case of a local (~~(sales and use)~~) tax that is a credit
28 against the state sales tax or use tax, a local (~~(sales and use)~~) tax
29 change shall take effect (a) no sooner than thirty days after the
30 department receives notice of the change and (b) only on the first day
31 of a month.

32 (3)(a) A local (~~(sales and use)~~) tax rate increase imposed on
33 services applies to the first billing period starting on or after the
34 effective date of the increase.

35 (b) A local (~~(sales and use)~~) tax rate decrease imposed on services

1 applies to bills rendered on or after the effective date of the
2 decrease.

3 (c) For the purposes of this subsection (3), "services" means
4 retail services such as installing and constructing and retail services
5 such as telecommunications, but does not include services such as
6 tattooing.

7 (4) For the purposes of this section, the following definitions
8 apply:

9 (a) "Local government" means any city, town, county, or any other
10 municipal corporation, quasi-municipal corporation, or other political
11 subdivision authorized to impose taxes, fees, or charges.

12 (b) "Local ((sales and use)) tax change" means enactment or
13 revision, including changes resulting from referendum or annexation,
14 of:

15 (i) Local sales and use taxes under this chapter or any other
16 statute((, including changes resulting from referendum or annexation));
17 or

18 (ii) Any other tax, fee, or charge imposed by a local government
19 that the department is required to collect on behalf of the local
20 government, including any tax, fee, or charge imposed under this title
21 or Title 35, 36, or 67 RCW.

22 **Sec. 19.** RCW 82.14B.020 and 2002 c 341 s 7 are each amended to
23 read as follows:

24 As used in this chapter:

25 (1) "Emergency services communication system" means a multicounty,
26 countywide, or districtwide radio or landline communications network,
27 including an enhanced 911 telephone system, which provides rapid public
28 access for coordinated dispatching of services, personnel, equipment,
29 and facilities for police, fire, medical, or other emergency services.

30 (2) "Enhanced 911 telephone system" means a public telephone system
31 consisting of a network, data base, and on-premises equipment that is
32 accessed by dialing 911 and that enables reporting police, fire,
33 medical, or other emergency situations to a public safety answering
34 point. The system includes the capability to selectively route
35 incoming 911 calls to the appropriate public safety answering point
36 that operates in a defined 911 service area and the capability to

1 automatically display the name, address, and telephone number of
2 incoming 911 calls at the appropriate public safety answering point.

3 (3) "Switched access line" means the telephone service line which
4 connects a subscriber's main telephone(s) or equivalent main
5 telephone(s) to the local exchange company's switching office.

6 (4) "Local exchange company" has the meaning ascribed to it in RCW
7 80.04.010.

8 (5) "Radio access line" means the telephone number assigned to or
9 used by a subscriber for two-way local wireless voice service available
10 to the public for hire from a radio communications service company.
11 Radio access lines include, but are not limited to, radio-telephone
12 communications lines used in cellular telephone service, personal
13 communications services, and network radio access lines, or their
14 functional and competitive equivalent. Radio access lines do not
15 include lines that provide access to one-way signaling service, such as
16 paging service, or to communications channels suitable only for data
17 transmission, or to nonlocal radio access line service, such as
18 wireless roaming service, or to a private telecommunications system.

19 (6) "Radio communications service company" has the meaning ascribed
20 to it in RCW 80.04.010, except that it does not include radio paging
21 providers. It does include those persons or entities that provide
22 commercial mobile radio services, as defined by 47 U.S.C. Sec.
23 332(d)(1), and both facilities-based and nonfacilities-based resellers.

24 (7) "Private telecommunications system" has the meaning ascribed to
25 it in RCW 80.04.010.

26 (8) "Subscriber" means the retail purchaser of telephone service as
27 telephone service is defined in RCW 82.04.065(3).

28 (9) "Place of primary use" has the meaning ascribed to it in (~~the~~
29 ~~federal mobile telecommunications sourcing act, P.L. 106-252~~) RCW
30 82.04.065.

31 **Sec. 20.** RCW 82.14B.030 and 2002 c 341 s 8 and 2002 c 67 s 8 are
32 each reenacted and amended to read as follows:

33 (1) The legislative authority of a county may impose a county
34 enhanced 911 excise tax on the use of switched access lines in an
35 amount not exceeding fifty cents per month for each switched access
36 line. The amount of tax shall be uniform for each switched access

1 line. Each county shall provide notice of such tax to all local
2 exchange companies serving in the county at least sixty days in advance
3 of the date on which the first payment is due.

4 (2) The legislative authority of a county may also impose a county
5 enhanced 911 excise tax on the use of radio access lines whose place of
6 primary use is located within the county in an amount not exceeding
7 fifty cents per month for each radio access line. The amount of tax
8 shall be uniform for each radio access line. (~~The location of a radio
9 access line is the customer's place of primary use as defined in RCW
10 82.04.065.~~) The county shall provide notice of such tax to all radio
11 communications service companies serving in the county at least sixty
12 days in advance of the date on which the first payment is due. Any
13 county imposing this tax shall include in its ordinance a refund
14 mechanism whereby the amount of any tax ordered to be refunded by the
15 judgment of a court of record, or as a result of the resolution of any
16 appeal therefrom, shall be refunded to the radio communications service
17 company or local exchange company that collected the tax, and those
18 companies shall reimburse the subscribers who paid the tax. The
19 ordinance shall further provide that to the extent the subscribers who
20 paid the tax cannot be identified or located, the tax paid by those
21 subscribers shall be returned to the county.

22 (3) A state enhanced 911 excise tax is imposed on all switched
23 access lines in the state. The amount of tax shall not exceed twenty
24 cents per month for each switched access line. The tax shall be
25 uniform for each switched access line. The tax imposed under this
26 subsection shall be remitted to the department of revenue by local
27 exchange companies on a tax return provided by the department. Tax
28 proceeds shall be deposited by the treasurer in the enhanced 911
29 account created in RCW 38.52.540.

30 (4) A state enhanced 911 excise tax is imposed on all radio access
31 lines whose place of primary use is located within the state in an
32 amount of twenty cents per month for each radio access line. The tax
33 shall be uniform for each radio access line. The tax imposed under
34 this section shall be remitted to the department of revenue by radio
35 communications service companies, including those companies that resell
36 radio access lines, on a tax return provided by the department. Tax
37 proceeds shall be deposited by the treasurer in the enhanced 911

1 account created in RCW 38.52.540. The tax imposed under this section
2 is not subject to the state sales and use tax or any local tax.

3 (5) By August 31st of each year the state enhanced 911 coordinator
4 shall recommend the level for the next year of the state enhanced 911
5 excise tax imposed by subsection (3) of this section, based on a
6 systematic cost and revenue analysis, to the utilities and
7 transportation commission. The commission shall by the following
8 October 31st determine the level of the state enhanced 911 excise tax
9 for the following year.

10 **Sec. 21.** RCW 82.19.010 and 1998 c 257 s 7 are each amended to read
11 as follows:

12 ((~~1~~)) In addition to any other taxes, there is hereby levied and
13 there shall be collected by the department of revenue from every person
14 for the privilege of engaging within this state in business as a
15 manufacturer, as a wholesaler, or as a retailer, a litter tax equal to
16 the value of products listed in RCW 82.19.020, including byproducts,
17 manufactured within this state, multiplied by fifteen one-thousandths
18 of one percent in the case of manufacturers, and equal to the gross
19 proceeds of sales of the products listed in RCW 82.19.020 that are sold
20 within this state multiplied by fifteen one-thousandths of one percent
21 in the case of wholesalers and retailers.

22 ~~((2) Beginning January 1999, and in January of every odd-numbered~~
23 ~~year thereafter, the department shall submit to the appropriate~~
24 ~~committees of the senate and the house of representatives a report on~~
25 ~~compliance with the litter tax. The report shall address:~~

- 26 ~~(a) The litter tax reported voluntarily and litter tax assessed~~
27 ~~through enforcement; and~~
- 28 ~~(b) Total litter tax revenues reported on an industry basis.~~

29 ~~(3) Beginning January 1999, the frequency and time of collection of~~
30 ~~the tax will be changed to coincide with the reporting periods by~~
31 ~~payers of their business and occupation tax.))~~

32 **Sec. 22.** RCW 82.29A.130 and 1999 c 165 s 21 are each amended to
33 read as follows:

34 The following leasehold interests shall be exempt from taxes
35 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

1 (1) All leasehold interests constituting a part of the operating
2 properties of any public utility which is assessed and taxed as a
3 public utility pursuant to chapter 84.12 RCW.

4 (2) All leasehold interests in facilities owned or used by a
5 school, college, or university which leasehold provides housing for
6 students and which is otherwise exempt from taxation under provisions
7 of RCW 84.36.010 and 84.36.050. The exemption provided by this
8 subsection does not apply to leasehold interests in any portion of
9 student housing facilities that is not used to provide housing for
10 students.

11 (3) All leasehold interests of subsidized housing where the fee
12 ownership of such property is vested in the government of the United
13 States, or the state of Washington or any political subdivision
14 thereof, but only if income qualification exists for such housing.

15 (4) All leasehold interests used for fair purposes of a nonprofit
16 fair association that sponsors or conducts a fair or fairs which
17 receive support from revenues collected pursuant to RCW 67.16.100 and
18 allocated by the director of the department of agriculture where the
19 fee ownership of such property is vested in the government of the
20 United States, the state of Washington or any of its political
21 subdivisions: PROVIDED, That this exemption shall not apply to the
22 leasehold interest of any sublessee of such nonprofit fair association
23 if such leasehold interest would be taxable if it were the primary
24 lease.

25 (5) All leasehold interests in any property of any public entity
26 used as a residence by an employee of that public entity who is
27 required as a condition of employment to live in the publicly owned
28 property.

29 (6) All leasehold interests held by enrolled Indians of lands owned
30 or held by any Indian or Indian tribe where the fee ownership of such
31 property is vested in or held in trust by the United States and which
32 are not subleased to other than to a lessee which would qualify
33 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

34 (7) All leasehold interests in any real property of any Indian or
35 Indian tribe, band, or community that is held in trust by the United
36 States or is subject to a restriction against alienation imposed by the
37 United States: PROVIDED, That this exemption shall apply only where it
38 is determined that contract rent paid is greater than or equal to

1 ninety percent of fair market rental, to be determined by the
2 department of revenue using the same criteria used to establish taxable
3 rent in RCW 82.29A.020(2)(b).

4 (8) All leasehold interests for which annual taxable rent is less
5 than two hundred fifty dollars per year. For purposes of this
6 subsection leasehold interests held by the same lessee in contiguous
7 properties owned by the same lessor shall be deemed a single leasehold
8 interest.

9 (9) All leasehold interests which give use or possession of the
10 leased property for a continuous period of less than thirty days:
11 PROVIDED, That for purposes of this subsection, successive leases or
12 lease renewals giving substantially continuous use ((~~of~~)) or possession
13 of the same property to the same lessee shall be deemed a single
14 leasehold interest: PROVIDED FURTHER, That no leasehold interest shall
15 be deemed to give use or possession for a period of less than thirty
16 days solely by virtue of the reservation by the public lessor of the
17 right to use the property or to allow third parties to use the property
18 on an occasional, temporary basis.

19 (10) All leasehold interests under month-to-month leases in
20 residential units rented for residential purposes of the lessee pending
21 destruction or removal for the purpose of constructing a public highway
22 or building.

23 (11) All leasehold interests in any publicly owned real or personal
24 property to the extent such leasehold interests arises solely by virtue
25 of a contract for public improvements or work executed under the public
26 works statutes of this state or of the United States between the public
27 owner of the property and a contractor.

28 (12) All leasehold interests that give use or possession of state
29 adult correctional facilities for the purposes of operating
30 correctional industries under RCW 72.09.100.

31 (13) All leasehold interests used to provide organized and
32 supervised recreational activities for disabled persons of all ages in
33 a camp facility and for public recreational purposes by a nonprofit
34 organization, association, or corporation that would be exempt from
35 property tax under RCW 84.36.030(1) if it owned the property. If the
36 publicly owned property is used for any taxable purpose, the leasehold
37 excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be
38 imposed and shall be apportioned accordingly.

1 (14) All leasehold interests in the public or entertainment areas
2 of a baseball stadium with natural turf and a retractable roof or
3 canopy that is in a county with a population of over one million, that
4 has a seating capacity of over forty thousand, and that is constructed
5 on or after January 1, 1995. "Public or entertainment areas" include
6 ticket sales areas, ramps and stairs, lobbies and concourses, parking
7 areas, concession areas, restaurants, hospitality and stadium club
8 areas, kitchens or other work areas primarily servicing other public or
9 entertainment areas, public rest room areas, press and media areas,
10 control booths, broadcast and production areas, retail sales areas,
11 museum and exhibit areas, scoreboards or other public displays, storage
12 areas, loading, staging, and servicing areas, seating areas and suites,
13 the playing field, and any other areas to which the public has access
14 or which are used for the production of the entertainment event or
15 other public usage, and any other personal property used for these
16 purposes. "Public or entertainment areas" does not include locker
17 rooms or private offices exclusively used by the lessee.

18 (15) All leasehold interests in the public or entertainment areas
19 of a stadium and exhibition center, as defined in RCW 36.102.010, that
20 is constructed on or after January 1, 1998. For the purposes of this
21 subsection, "public or entertainment areas" has the same meaning as in
22 subsection (14) of this section, and includes exhibition areas.

23 (16) All leasehold interests in public facilities district(~~s~~)
24 facilities, as (~~provided~~) described in (~~chapter 36.100 or 35.57~~)
25 RCW 36.100.030(1) or 35.57.020(1).

26 NEW SECTION. Sec. 23. RCW 82.29A.150 (Cancellation of taxes
27 levied for collection in 1976) and 1975-'76 2nd ex.s. c 61 s 17 are
28 each repealed.

29 **Sec. 24.** RCW 82.32.033 and 2004 c 253 s 1 are each amended to read
30 as follows:

31 (1) A promoter of a special event within the state of Washington
32 shall not permit a vendor to make or solicit retail sales of tangible
33 personal property or services at the special event unless the promoter
34 makes a good faith effort to obtain verification that the vendor has
35 obtained a certificate of registration from the department.

36 (2) A promoter of a special event shall:

1 (a) Keep, in addition to the records required under RCW 82.32.070,
2 a record of the dates and place of each special event, and the name,
3 address, and registration certificate number of each vendor permitted
4 to make or solicit retail sales of tangible personal property or
5 services at the special event. The record of the date and place of a
6 special event, and the name, address, and registration certificate
7 number of each vendor at the event shall be preserved for a period of
8 one year from the date of a special event; and

9 (b) Provide to the department, within twenty days of receipt of a
10 written request from the department, a list of vendors permitted to
11 make or solicit retail sales of tangible personal property or services.
12 The list shall be in a form and contain such information as the
13 department may require, and shall include the date and place of the
14 event, and the name, address, and registration certificate number of
15 each vendor.

16 (3) If a promoter fails to make a good faith effort to comply with
17 the provisions of this section, the promoter is liable for the
18 penalties provided in this subsection (3).

19 (a) If a promoter fails to make a good faith effort to comply with
20 the provisions of subsection (1) of this section, the department shall
21 impose a penalty of one hundred dollars for each vendor permitted to
22 make or solicit retail sales of tangible personal property or services
23 at the special event.

24 (b) If a promoter fails to make a good faith effort to comply with
25 the provisions of subsection (2)(b) of this section, the department
26 shall impose a penalty of:

27 (i) Two hundred fifty dollars if the information requested is not
28 received by the department within twenty days of the department's
29 written request; and

30 (ii) One hundred dollars for each vendor for whom the information
31 as required by subsection (2)(b) of this section is not provided to the
32 department.

33 (4) The aggregate of penalties imposed under subsection (3) of this
34 section may not exceed two thousand five hundred dollars for a special
35 event if the promoter has not previously been penalized under this
36 section. Under no circumstances is a promoter liable for sales tax or
37 business and occupation tax not remitted to the department by a vendor
38 at a special event.

1 (5) The department shall notify a promoter by mail of any penalty
2 imposed under this section, and the penalty shall be due within thirty
3 days from the date of the notice. If any penalty imposed under this
4 section is not received by the department by the due date, there shall
5 be assessed interest on the unpaid amount beginning the day following
6 the due date until the penalty is paid in full. The rate of interest
7 shall be computed on a daily basis on the amount of outstanding penalty
8 at the rate as computed under RCW 82.32.050(2). The rate computed
9 shall be adjusted annually in the same manner as provided in RCW
10 82.32.050(1)(c).

11 (6) For purposes of this section:

12 (a) "Promoter" means a person who organizes, operates, or sponsors
13 a special event and who contracts with vendors for participation in the
14 special event.

15 (b) "Special event" means an entertainment, amusement,
16 recreational, educational, or marketing event, whether held on a
17 regular or irregular basis, at which more than one vendor makes or
18 solicits retail sales of tangible personal property or services. The
19 term includes, but is not limited to: Auto shows, recreational vehicle
20 shows, boat shows, home shows, garden shows, hunting and fishing shows,
21 stamp shows, comic book shows, sports memorabilia shows, craft shows,
22 art shows, antique shows, flea markets, exhibitions, festivals,
23 concerts, swap meets, bazaars, carnivals, athletic contests, circuses,
24 fairs, or other similar activities. "Special event" does not include
25 an event that is organized for the exclusive benefit of any nonprofit
26 organization as defined in RCW 82.04.3651. An event is organized for
27 the exclusive benefit of a nonprofit organization if all of the gross
28 proceeds of retail sales of all vendors at the event inure to the
29 benefit of the nonprofit organization on whose behalf the event is
30 being held. "Special event" does not include athletic contests that
31 involve competition between teams, when such competition consists of
32 more than five contests in a calendar year by at least one team at the
33 same facility or site.

34 (c) "Vendor" means a person who, at a special event, makes or
35 solicits retail sales of tangible personal property or services.
36 "Vendor" does not include any person who is not required to obtain a
37 certificate of registration with the department under RCW 82.32.030.

1 (7) "Good faith effort to comply" and "good faith effort to obtain"
2 may be shown by, but is not limited to, circumstances where a promoter:

3 (a) Includes a statement on all written contracts with its vendors
4 that a valid registration certificate number issued by the department
5 of revenue is required for participation in the special event and
6 requires vendors to indicate their registration certificate number on
7 these contracts; and

8 (b) Provides the department with a list of vendors and their
9 associated registration certificate numbers as provided in subsection
10 (2)(b) of this section.

11 (8) This section does not apply to:

12 (a) A special event whose promoter does not charge more than two
13 hundred dollars for a vendor to participate in a special event;

14 (b) A special event whose promoter charges a percentage of sales
15 instead of, or in addition to, a flat charge for a vendor to
16 participate in a special event if the promoter, in good faith, believes
17 that no vendor will pay more than two hundred dollars to participate in
18 the special event; or

19 (c) A person who does not organize, operate, or sponsor a special
20 event, but only provides a venue, supplies, furnishings, fixtures,
21 equipment, or services to a promoter of a special event.

22 **Sec. 25.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to
23 read as follows:

24 (1) If the department of revenue finds that the payment by a
25 taxpayer of a tax less than that properly due or the failure of a
26 taxpayer to pay any tax by the due date was the result of circumstances
27 beyond the control of the taxpayer, the department of revenue shall
28 waive or cancel any penalties imposed under this chapter with respect
29 to such tax.

30 (2) The department shall waive or cancel the penalty imposed under
31 RCW 82.32.090(1) when the circumstances under which the delinquency
32 occurred do not qualify for waiver or cancellation under subsection (1)
33 of this section if:

34 (a) The taxpayer requests the waiver for a tax return required to
35 be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060,
36 82.29A.050, 82.72.050, or 84.33.086; and

1 (b) The taxpayer has timely filed and remitted payment on all tax
2 returns due for that tax program for a period of twenty-four months
3 immediately preceding the period covered by the return for which the
4 waiver is being requested.

5 (3) The department shall waive or cancel interest imposed under
6 this chapter if:

7 (a) The failure to timely pay the tax was the direct result of
8 written instructions given the taxpayer by the department; or

9 (b) The extension of a due date for payment of an assessment of
10 deficiency was not at the request of the taxpayer and was for the sole
11 convenience of the department.

12 (4) The department of revenue shall adopt rules for the waiver or
13 cancellation of penalties and interest imposed by this chapter.

14 **Sec. 26.** RCW 82.32.140 and 2003 1st sp.s. c 13 s 12 are each
15 amended to read as follows:

16 (1) Whenever any taxpayer quits business, or sells out, exchanges,
17 or otherwise disposes of more than fifty percent of the fair market
18 value of either its tangible or intangible assets, any tax payable
19 hereunder shall become immediately due and payable, and such taxpayer
20 shall, within ten days thereafter, make a return and pay the tax due.
21 For the purposes of this section, "tangible or intangible assets" do
22 not include any interest in real property.

23 (2) Any person who becomes a successor shall withhold from the
24 purchase price a sum sufficient to pay any tax due from the taxpayer
25 until such time as the taxpayer shall produce a receipt from the
26 department of revenue showing payment in full of any tax due or a
27 certificate that no tax is due. If any tax is not paid by the taxpayer
28 within ten days from the date of such sale, exchange, or disposal, the
29 successor shall become liable for the payment of the full amount of
30 tax. If the fair market value of the assets acquired by a successor is
31 less than fifty thousand dollars, the successor's liability for payment
32 of the unpaid tax is limited to the fair market value of the assets
33 acquired from the taxpayer. The burden of establishing the fair market
34 value of the assets acquired is on the successor.

35 (3) The payment of any tax by a successor shall, to the extent
36 thereof, be deemed a payment upon the purchase price; and if such

1 payment is greater in amount than the purchase price the amount of the
2 difference shall become a debt due the successor from the taxpayer.

3 (4) No successor shall be liable for any tax due from the person
4 from whom the successor has acquired (~~(a business or stock of goods)~~)
5 more than fifty percent of the fair market value of either the person's
6 tangible or intangible assets if the successor gives written notice to
7 the department of revenue of such acquisition and no assessment is
8 issued by the department of revenue within six months of receipt of
9 such notice against the former operator of the business and a copy
10 thereof mailed to the successor.

11 **Sec. 27.** RCW 82.32.330 and 2000 c 173 s 1 and 2000 c 106 s 1 are
12 each reenacted and amended to read as follows:

13 (1) For purposes of this section:

14 (a) "Disclose" means to make known to any person in any manner
15 whatever a return or tax information;

16 (b) "Return" means a tax or information return or claim for refund
17 required by, or provided for or permitted under, the laws of this state
18 which is filed with the department of revenue by, on behalf of, or with
19 respect to a person, and any amendment or supplement thereto, including
20 supporting schedules, attachments, or lists that are supplemental to,
21 or part of, the return so filed;

22 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
23 nature, source, or amount of the taxpayer's income, payments, receipts,
24 deductions, exemptions, credits, assets, liabilities, net worth, tax
25 liability deficiencies, overassessments, or tax payments, whether taken
26 from the taxpayer's books and records or any other source, (iii)
27 whether the taxpayer's return was, is being, or will be examined or
28 subject to other investigation or processing, (iv) a part of a written
29 determination that is not designated as a precedent and disclosed
30 pursuant to RCW 82.32.410, or a background file document relating to a
31 written determination, and (v) other data received by, recorded by,
32 prepared by, furnished to, or collected by the department of revenue
33 with respect to the determination of the existence, or possible
34 existence, of liability, or the amount thereof, of a person under the
35 laws of this state for a tax, penalty, interest, fine, forfeiture, or
36 other imposition, or offense: PROVIDED, That data, material, or
37 documents that do not disclose information related to a specific or

1 identifiable taxpayer do not constitute tax information under this
2 section. Except as provided by RCW 82.32.410, nothing in this chapter
3 shall require any person possessing data, material, or documents made
4 confidential and privileged by this section to delete information from
5 such data, material, or documents so as to permit its disclosure;

6 (d) "State agency" means every Washington state office, department,
7 division, bureau, board, commission, or other state agency;

8 (e) "Taxpayer identity" means the taxpayer's name, address,
9 telephone number, registration number, or any combination thereof, or
10 any other information disclosing the identity of the taxpayer; and

11 (f) "Department" means the department of revenue or its officer,
12 agent, employee, or representative.

13 (2) Returns and tax information shall be confidential and
14 privileged, and except as authorized by this section, neither the
15 department of revenue nor any other person may disclose any return or
16 tax information.

17 (3) The foregoing, however, shall not prohibit the department of
18 revenue from:

19 (a) Disclosing such return or tax information in a civil or
20 criminal judicial proceeding or an administrative proceeding:

21 (i) In respect of any tax imposed under the laws of this state if
22 the taxpayer or its officer or other person liable under Title 82 RCW
23 is a party in the proceeding; or

24 (ii) In which the taxpayer about whom such return or tax
25 information is sought and another state agency are adverse parties in
26 the proceeding;

27 (b) Disclosing, subject to such requirements and conditions as the
28 director shall prescribe by rules adopted pursuant to chapter 34.05
29 RCW, such return or tax information regarding a taxpayer to such
30 taxpayer or to such person or persons as that taxpayer may designate in
31 a request for, or consent to, such disclosure, or to any other person,
32 at the taxpayer's request, to the extent necessary to comply with a
33 request for information or assistance made by the taxpayer to such
34 other person: PROVIDED, That tax information not received from the
35 taxpayer shall not be so disclosed if the director determines that such
36 disclosure would compromise any investigation or litigation by any
37 federal, state, or local government agency in connection with the civil
38 or criminal liability of the taxpayer or another person, or that such

1 disclosure would identify a confidential informant, or that such
2 disclosure is contrary to any agreement entered into by the department
3 that provides for the reciprocal exchange of information with other
4 government agencies which agreement requires confidentiality with
5 respect to such information unless such information is required to be
6 disclosed to the taxpayer by the order of any court;

7 (c) Disclosing the name of a taxpayer with a deficiency greater
8 than five thousand dollars and against whom a warrant under RCW
9 82.32.210 has been either issued or filed and remains outstanding for
10 a period of at least ten working days. The department shall not be
11 required to disclose any information under this subsection if a
12 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
13 a warrant that has not been filed; and (iii) has entered a deferred
14 payment arrangement with the department of revenue and is making
15 payments upon such deficiency that will fully satisfy the indebtedness
16 within twelve months;

17 (d) Disclosing the name of a taxpayer with a deficiency greater
18 than five thousand dollars and against whom a warrant under RCW
19 82.32.210 has been filed with a court of record and remains
20 outstanding;

21 (e) Publishing statistics so classified as to prevent the
22 identification of particular returns or reports or items thereof;

23 (f) Disclosing such return or tax information, for official
24 purposes only, to the governor or attorney general, or to any state
25 agency, or to any committee or subcommittee of the legislature dealing
26 with matters of taxation, revenue, trade, commerce, the control of
27 industry or the professions;

28 (g) Permitting the department of revenue's records to be audited
29 and examined by the proper state officer, his or her agents and
30 employees;

31 (h) Disclosing any such return or tax information to a peace
32 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for
33 official purposes. The disclosure may be made only in response to a
34 search warrant, subpoena, or other court order, unless the disclosure
35 is for the purpose of criminal tax enforcement. A peace officer or
36 county prosecuting attorney who receives the return or tax information
37 may disclose that return or tax information only for use in the

1 investigation and a related court proceeding, or in the court
2 proceeding for which the return or tax information originally was
3 sought;

4 (i) Disclosing any such return or tax information to the proper
5 officer of the internal revenue service of the United States, the
6 Canadian government or provincial governments of Canada, or to the
7 proper officer of the tax department of any state or city or town or
8 county, for official purposes, but only if the statutes of the United
9 States, Canada or its provincial governments, or of such other state or
10 city or town or county, as the case may be, grants substantially
11 similar privileges to the proper officers of this state;

12 (j) Disclosing any such return or tax information to the Department
13 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
14 Department of the Treasury, the Department of Defense, the Immigration
15 and Customs Enforcement and the Customs and Border Protection agencies
16 of the United States ((Customs Service)) Department of Homeland
17 Security, the Coast Guard of the United States, and the United States
18 Department of Transportation, or any authorized representative thereof,
19 for official purposes;

20 (k) Publishing or otherwise disclosing the text of a written
21 determination designated by the director as a precedent pursuant to RCW
22 82.32.410;

23 (l) Disclosing, in a manner that is not associated with other tax
24 information, the taxpayer name, entity type, business address, mailing
25 address, revenue tax registration numbers, North American industry
26 classification system or standard industrial classification code of a
27 taxpayer, and the dates of opening and closing of business. This
28 subsection shall not be construed as giving authority to the department
29 to give, sell, or provide access to any list of taxpayers for any
30 commercial purpose;

31 (m) Disclosing such return or tax information that is also
32 maintained by another Washington state or local governmental agency as
33 a public record available for inspection and copying under the
34 provisions of chapter 42.17 RCW or is a document maintained by a court
35 of record not otherwise prohibited from disclosure;

36 (n) Disclosing such return or tax information to the United States
37 department of agriculture for the limited purpose of investigating food
38 stamp fraud by retailers;

1 (o) Disclosing to a financial institution, escrow company, or title
2 company, in connection with specific real property that is the subject
3 of a real estate transaction, current amounts due the department for a
4 filed tax warrant, judgment, or lien against the real property; or

5 (p) Disclosing to a person against whom the department has asserted
6 liability as a successor under RCW 82.32.140 return or tax information
7 pertaining to the specific business of the taxpayer to which the person
8 has succeeded.

9 (4)(a) The department may disclose return or taxpayer information
10 to a person under investigation or during any court or administrative
11 proceeding against a person under investigation as provided in this
12 subsection (4). The disclosure must be in connection with the
13 department's official duties relating to an audit, collection activity,
14 or a civil or criminal investigation. The disclosure may occur only
15 when the person under investigation and the person in possession of
16 data, materials, or documents are parties to the return or tax
17 information to be disclosed. The department may disclose return or tax
18 information such as invoices, contracts, bills, statements, resale or
19 exemption certificates, or checks. However, the department may not
20 disclose general ledgers, sales or cash receipt journals, check
21 registers, accounts receivable/payable ledgers, general journals,
22 financial statements, expert's workpapers, income tax returns, state
23 tax returns, tax return workpapers, or other similar data, materials,
24 or documents.

25 (b) Before disclosure of any tax return or tax information under
26 this subsection (4), the department shall, through written
27 correspondence, inform the person in possession of the data, materials,
28 or documents to be disclosed. The correspondence shall clearly
29 identify the data, materials, or documents to be disclosed. The
30 department may not disclose any tax return or tax information under
31 this subsection (4) until the time period allowed in (c) of this
32 subsection has expired or until the court has ruled on any challenge
33 brought under (c) of this subsection.

34 (c) The person in possession of the data, materials, or documents
35 to be disclosed by the department has twenty days from the receipt of
36 the written request required under (b) of this subsection to petition
37 the superior court of the county in which the petitioner resides for

1 injunctive relief. The court shall limit or deny the request of the
2 department if the court determines that:

3 (i) The data, materials, or documents sought for disclosure are
4 cumulative or duplicative, or are obtainable from some other source
5 that is more convenient, less burdensome, or less expensive;

6 (ii) The production of the data, materials, or documents sought
7 would be unduly burdensome or expensive, taking into account the needs
8 of the department, the amount in controversy, limitations on the
9 petitioner's resources, and the importance of the issues at stake; or

10 (iii) The data, materials, or documents sought for disclosure
11 contain trade secret information that, if disclosed, could harm the
12 petitioner.

13 (d) The department shall reimburse reasonable expenses for the
14 production of data, materials, or documents incurred by the person in
15 possession of the data, materials, or documents to be disclosed.

16 (e) Requesting information under (b) of this subsection that may
17 indicate that a taxpayer is under investigation does not constitute a
18 disclosure of tax return or tax information under this section.

19 (5) Any person acquiring knowledge of any return or tax information
20 in the course of his or her employment with the department of revenue
21 and any person acquiring knowledge of any return or tax information as
22 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this
23 section, who discloses any such return or tax information to another
24 person not entitled to knowledge of such return or tax information
25 under the provisions of this section, is guilty of a misdemeanor. If
26 the person guilty of such violation is an officer or employee of the
27 state, such person shall forfeit such office or employment and shall be
28 incapable of holding any public office or employment in this state for
29 a period of two years thereafter.

30 **Sec. 28.** RCW 82.32.520 and 2004 c 153 s 403 are each amended to
31 read as follows:

32 (1) Except for the defined telecommunications services listed in
33 this section, the sale of telephone service as defined in RCW 82.04.065
34 sold on a call-by-call basis shall be sourced to (a) each level of
35 taxing jurisdiction where the call originates and terminates in that
36 jurisdiction or (b) each level of taxing jurisdiction where the call

1 either originates or terminates and in which the service address is
2 also located.

3 (2) Except for the defined telecommunications services listed in
4 this section, a sale of telephone service as defined in RCW 82.04.065
5 sold on a basis other than a call-by-call basis, is sourced to the
6 customer's place of primary use.

7 (3) The sales of telephone service as defined in RCW 82.04.065 that
8 are listed in this section shall be sourced to each level of taxing
9 jurisdiction as follows:

10 (a) A sale of mobile telecommunications services, other than air-
11 ground radiotelephone service and prepaid calling service, is sourced
12 to the customer's place of primary use as required by RCW 82.08.066.

13 (b) A sale of postpaid calling service is sourced to the
14 origination point of the telecommunications signal as first identified
15 by either (i) the seller's telecommunications system, or (ii)
16 information received by the seller from its service provider, where the
17 system used to transport such signals is not that of the seller.

18 (c) A sale of prepaid calling service is sourced as follows:

19 (i) When a prepaid calling service is received by the purchaser at
20 a business location of the seller, the sale is sourced to that business
21 location;

22 (ii) When a prepaid calling service is not received by the
23 purchaser at a business location of the seller, the sale is sourced to
24 the location where receipt by the purchaser or the purchaser's donee,
25 designated as such by the purchaser, occurs, including the location
26 indicated by instructions for delivery to the purchaser or donee, known
27 to the seller;

28 (iii) When (c)(i) and (ii) of this subsection do not apply, the
29 sale is sourced to the location indicated by an address for the
30 purchaser that is available from the business records of the seller
31 that are maintained in the ordinary course of the seller's business
32 when use of this address does not constitute bad faith;

33 (iv) When (c)(i), (ii), and (iii) of this subsection do not apply,
34 the sale is sourced to the location indicated by an address for the
35 purchaser obtained during the consummation of the sale, including the
36 address of a purchaser's payment instrument, if no other address is
37 available, when use of this address does not constitute bad faith;

1 (v) When (c)(i), (ii), (iii), and (iv) of this subsection do not
2 apply, including the circumstance where the seller is without
3 sufficient information to apply those provisions, then the location
4 shall be determined by the address from which tangible personal
5 property was shipped, from which the digital good or the computer
6 software delivered electronically was first available for transmission
7 by the seller, or from which the service defined as a retail sale under
8 RCW 82.04.050 was provided, disregarding for these purposes any
9 location that merely provided the digital transfer of the product sold;

10 (vi) In the case of a sale of mobile telecommunications service
11 that is a prepaid telecommunications service, (c)(v) of this subsection
12 shall include as an option the location associated with the mobile
13 telephone number.

14 (d) A sale of a private communication service is sourced as
15 follows:

16 (i) Service for a separate charge related to a customer channel
17 termination point is sourced to each level of jurisdiction in which
18 such customer channel termination point is located.

19 (ii) Service where all customer termination points are located
20 entirely within one jurisdiction or levels of jurisdiction is sourced
21 in such jurisdiction in which the customer channel termination points
22 are located.

23 (iii) Service for segments of a channel between two customer
24 channel termination points located in different jurisdictions and which
25 segment of channel are separately charged is sourced fifty percent in
26 each level of jurisdiction in which the customer channel termination
27 points are located.

28 (iv) Service for segments of a channel located in more than one
29 jurisdiction or levels of jurisdiction and which segments are not
30 separately billed is sourced in each jurisdiction based on the
31 percentage determined by dividing the number of customer channel
32 termination points in the jurisdiction by the total number of customer
33 channel termination points.

34 (4) The definitions in this subsection apply throughout this
35 chapter.

36 (a) "Air-ground radiotelephone service" means air-ground radio
37 service, as defined in 47 C.F.R. Sec. 22.99, as amended or renumbered

1 as of January 1, 2003, in which common carriers are authorized to offer
2 and provide radio telecommunications service for hire to subscribers in
3 aircraft.

4 (b) "Call-by-call basis" means any method of charging for
5 telecommunications services where the price is measured by individual
6 calls.

7 (c) "Communications channel" means a physical or virtual path of
8 communications over which signals are transmitted between or among
9 customer channel termination points.

10 (d) "Customer" means the person or entity that contracts with the
11 seller of telecommunications services. If the end user of
12 telecommunications services is not the contracting party, the end user
13 of the telecommunications service is the customer of the
14 telecommunications service. "Customer" does not include a reseller of
15 telecommunications service or for mobile telecommunications service of
16 a serving carrier under an agreement to serve the customer outside the
17 home service provider's licensed service area.

18 (e) "Customer channel termination point" means the location where
19 the customer either inputs or receives the communications.

20 (f) "End user" means the person who uses the telecommunications
21 service. In the case of an entity, the term end user means the
22 individual who uses the service on behalf of the entity.

23 (g) "Home service provider" means the same as that term is defined
24 in RCW 82.04.065.

25 (h) "Mobile telecommunications service" means the same as that term
26 is defined in RCW 82.04.065.

27 (i) "Place of primary use" means the street address representative
28 of where the customer's use of the telecommunications service primarily
29 occurs, which must be the residential street address or the primary
30 business street address of the customer. In the case of mobile
31 telecommunications services, "place of primary use" must be within the
32 licensed service area of the home service provider.

33 (j) "Postpaid calling service" means the telecommunications service
34 obtained by making a payment on a call-by-call basis either through the
35 use of a credit card or payment mechanism such as a bank card, travel
36 card, credit card, or debit card, or by charge made to ((which)) a
37 telephone number that is not associated with the origination or
38 termination of the telecommunications service. A postpaid calling

1 service includes a telecommunications service that would be a prepaid
2 calling service except it is not exclusively a telecommunications
3 service.

4 (k) "Prepaid calling service" means the right to access exclusively
5 telecommunications services, which must be paid for in advance and
6 which enables the origination of calls using an access number and/or
7 authorization code, whether manually or electronically dialed, and that
8 is sold in predetermined units or dollars of which the number declines
9 with use in a known amount.

10 (l) "Private communication service" means a telecommunications
11 service that entitles the customer to exclusive or priority use of a
12 communications channel or group of channels between or among
13 termination points, regardless of the manner in which such channel or
14 channels are connected, and includes switching capacity, extension
15 lines, stations, and any other associated services that are provided in
16 connection with the use of such channel or channels.

17 (m) "Service address" means:

18 (i) The location of the telecommunications equipment to which a
19 customer's call is charged and from which the call originates or
20 terminates, regardless of where the call is billed or paid;

21 (ii) If the location in (m)(i) of this subsection is not known, the
22 origination point of the signal of the telecommunications services
23 first identified by either the seller's telecommunications system or in
24 information received by the seller from its service provider, where the
25 system used to transport such signals is not that of the seller;

26 (iii) If the locations in (m)(i) and (ii) of this subsection are
27 not known, the location of the customer's place of primary use.

28 **Sec. 29.** RCW 82.32.555 and 2004 c 76 s 1 are each amended to read
29 as follows:

30 If a taxing jurisdiction does not subject some charges for
31 telephone services to taxation, but these charges are aggregated with
32 and not separately stated from charges that are subject to taxation,
33 then the charges for nontaxable telephone services may be subject to
34 taxation unless the telephone service ((~~or~~)) provider can reasonably
35 identify charges not subject to the tax, charge, or fee from its books
36 and records that are kept in the regular course of business and for

1 purposes other than merely allocating the sales price of an aggregated
2 charge to the individually aggregated items.

3 **Sec. 30.** RCW 82.45.150 and 1996 c 149 s 6 are each amended to read
4 as follows:

5 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.050,
6 82.32.140, 82.32.270, and 82.32.090 (1) and (~~(8)~~) (9), applies to the
7 tax imposed by this chapter, in addition to any other provisions of law
8 for the payment and enforcement of the tax imposed by this chapter.
9 The department of revenue shall by rule provide for the effective
10 administration of this chapter. The rules shall prescribe and furnish
11 a real estate excise tax affidavit form verified by both the seller and
12 the buyer, or agents of each, to be used by each county, or the
13 department, as the case may be, in the collection of the tax imposed by
14 this chapter, except that an affidavit given in connection with grant
15 of an easement or right of way to a gas, electrical, or
16 telecommunications company, as defined in RCW 80.04.010, or to a public
17 utility district or cooperative that distributes electricity, need be
18 verified only on behalf of the company, district, or cooperative. The
19 department of revenue shall annually conduct audits of transactions and
20 affidavits filed under this chapter.

21 **Sec. 31.** 2004 c 153 s 502 (uncodified) is amended to read as
22 follows:

23 (1) If a court of competent jurisdiction enters a final judgment on
24 the merits that is based on federal or state law, is no longer subject
25 to appeal, and substantially limits or impairs the essential elements
26 of P.L. 106-252, 4 U.S.C. Secs. 116 through 126, or chapter 67, Laws of
27 2002, then chapter 67, Laws of 2002 is null and void in its entirety.

28 (2) If the contingency in subsection (1) of this section occurs,
29 section 502, chapter 168, Laws of 2003 is null and void.

30 (3) If the contingency in subsection (1) of this section occurs,
31 section 410, chapter 153, Laws of 2004 is null and void.

32 (4) If the contingency in subsection (1) of this section occurs,
33 sections 8 and 20, chapter ... (this act), Laws of 2005 (sections 8 and
34 20 of this act) are null and void.

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