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HOUSE BILL 2313

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State of Washington

59th Legislature

2005 Regular Session

By Representatives Hasegawa, Moeller, Appleton, Chase, Sells, Kirby, Santos, Haigh, Morrell, Dunshee, Pettigrew, Hunt, Darneille, Cody, Roberts, Kenney, Ormsby, McDermott and Sommers

Read first time . Referred to .

1 AN ACT Relating to raising revenue by restricting or eliminating  
2 tax exemptions, deductions, and credits; amending RCW 82.04.4281,  
3 82.04.290, 82.08.037, and 82.12.037; creating new sections; repealing  
4 RCW 82.04.062, 82.04.293, 82.04.315, 82.04.317, 82.04.4292, and  
5 82.04.44525; providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The intent of this act is to make additional  
8 revenue available for appropriation for programs that are not  
9 adequately funded in the state budget, such as the following:

10 (1) \$20,000,000 for the state board for community and technical  
11 colleges to bring the pay rate for part-time faculty up to sixty-five  
12 percent of the pay rate for full-time faculty.

13 (2) \$5,400,000 for the state board for community and technical  
14 colleges for salary increments for faculty and for professional  
15 development activities.

16 (3) \$11,040,000 for the state board for community and technical  
17 colleges to provide 5,650 additional full-time equivalent student  
18 enrollments.

1 (4) \$13,000,000 for the department of social and health services to  
2 ensure that medicaid recipients are not subject to copays for  
3 prescription drugs.

4 (5) \$3,000,000 for the department of social and health services for  
5 the limited English proficiency (LEP) pathways program.

6 (6) \$1,000,000 for the department of social and health services  
7 for efforts to facilitate naturalization of immigrants.

8 (7) \$13,000,000 for the department of social and health services to  
9 increase the vendor rate paid to hospitals.

10 (8) \$24,000,000 to fund gain sharing under public employee pension  
11 plans.

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

14 (1) In computing tax there may be deducted from the measure of  
15 tax(~~(+~~

16 ~~(a))~~) amounts derived from investments(~~(+~~

17 ~~(b) Amounts derived as dividends or distributions from [the]~~  
18 ~~capital account by a parent from its subsidiary entities; and~~

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

23 (2) The following are not deductible under subsection (1)(~~(a))~~) of  
24 this section:

25 (a) Amounts received from loans(~~(, except as provided in subsection~~  
26 ~~(1)(c) of this section,~~) or the extension of credit to another,  
27 revolving credit arrangements, installment sales, the acceptance of  
28 payment over time for goods or services, or any of the foregoing that  
29 have been transferred by the originator of the same to an affiliate of  
30 the transferor; or

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

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

33 (a) "Banking business" means a person engaging in business as a  
34 national or state-chartered bank, a mutual savings bank, a savings and  
35 loan association, a trust company, an alien bank, a foreign bank, a  
36 credit union, a stock savings bank, or a similar entity that is

1 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title  
2 12 U.S.C.

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

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

11 (d) "Security business" means a person, other than an issuer, who  
12 is engaged in the business of effecting transactions in securities as  
13 a broker, dealer, or broker-dealer, as those terms are defined in the  
14 securities act of Washington, chapter 21.20 RCW, or the federal  
15 securities act of 1933. "Security business" does not include any  
16 company excluded from the definition of broker or dealer under the  
17 federal investment company act of 1940 or any entity that is not an  
18 investment company by reason of sections 3(c)(1) and 3(c)(3) through  
19 3(c)(14) thereof.

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

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

27 ~~(2))~~ Upon every person engaging within this state in any business  
28 activity ~~((other than or in addition to those enumerated in RCW  
29 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,  
30 82.04.298, 82.04.2905, 82.04.280, 82.04.2907, 82.04.272, 82.04.2906,  
31 and 82.04.2908, and subsection (1) of this section))~~ that is not  
32 taxable under other provisions of this chapter; as to such persons the  
33 amount of tax on account of such activities shall be equal to the gross  
34 income of the business multiplied by the rate of 1.5 percent.

35 ~~((3))~~ (2) Subsection ~~((2))~~ (1) of this section includes, among  
36 others, and without limiting the scope hereof (whether or not title to  
37 materials used in the performance of such business passes to another by

1 accession, confusion or other than by outright sale), persons engaged  
2 in the business of rendering any type of service which does not  
3 constitute a "sale at retail" or a "sale at wholesale." The value of  
4 advertising, demonstration, and promotional supplies and materials  
5 furnished to an agent by his principal or supplier to be used for  
6 informational, educational and promotional purposes shall not be  
7 considered a part of the agent's remuneration or commission and shall  
8 not be subject to taxation under this section.

9 **Sec. 4.** RCW 82.08.037 and 2004 c 153 s 302 are each amended to  
10 read as follows:

11 (1) A seller is entitled to a credit or refund for sales taxes  
12 previously paid on bad debts, as that term is used in 26 U.S.C. Sec.  
13 166, as amended or renumbered as of January 1, 2003.

14 (2) For purposes of this section, "bad debts" does not include:

15 (a) Amounts due on property that remains in the possession of the  
16 seller until the full purchase price is paid;

17 (b) Expenses incurred in attempting to collect debt; (~~and~~)

18 (c) Debts sold or assigned by the seller to third parties, where  
19 the third party is without recourse against the seller; and

20 (d) Repossessed property.

21 (3) If a credit or refund of sales tax is taken for a bad debt and  
22 the debt is subsequently collected in whole or in part, the tax on the  
23 amount collected must be paid and reported on the return filed for the  
24 period in which the collection is made.

25 (4) Payments on a previously claimed bad debt are applied first  
26 proportionally to the taxable price of the property or service and the  
27 sales or use tax thereon, and secondly to interest, service charges,  
28 and any other charges.

29 (5) If the seller uses a certified service provider as defined in  
30 RCW 82.58.010 to administer its sales tax responsibilities, the  
31 certified service provider may claim, on behalf of the seller, the  
32 credit or refund allowed by this section. The certified service  
33 provider must credit or refund the full amount received to the seller.

34 (6) The department shall allow an allocation of bad debts among  
35 member states to the streamlined sales tax agreement, as defined in RCW  
36 82.58.010(1), if the books and records of the person claiming bad debts  
37 support the allocation.

1       (7) A person's right to claim a credit or refund under this section  
2 is not assignable. No person other than the original seller in the  
3 transaction that generated the bad debt or, as provided in subsection  
4 (5) of this section, a certified service provider is entitled to claim  
5 a credit or refund under this section. If the original seller in the  
6 transaction that generated the bad debt has sold or assigned the debt  
7 instrument to a third party with recourse, the original seller may  
8 claim a credit or refund under this section only after the debt  
9 instrument is reassigned by the third party to the original seller.

10       **Sec. 5.** RCW 82.12.037 and 2004 c 153 s 304 are each amended to  
11 read as follows:

12       (1) A seller is entitled to a credit or refund for use taxes  
13 previously paid on bad debts, as that term is used in 26 U.S.C. Sec.  
14 166, as amended or renumbered as of January 1, 2003.

15       (2) For purposes of this section, "bad debts" does not include:

16       (a) Amounts due on property that remains in the possession of the  
17 seller until the full purchase price is paid;

18       (b) Expenses incurred in attempting to collect debt; (~~and~~)

19       (c) Debts sold or assigned by the seller to third parties, where  
20 the third party is without recourse against the seller; and

21       (d) Repossessed property.

22       (3) If a credit or refund of use tax is taken for a bad debt and  
23 the debt is subsequently collected in whole or in part, the tax on the  
24 amount collected must be paid and reported on the return filed for the  
25 period in which the collection is made.

26       (4) Payments on a previously claimed bad debt are applied first  
27 proportionally to the taxable price of the property or service and the  
28 sales or use tax thereon, and secondly to interest, service charges,  
29 and any other charges.

30       (5) If the seller uses a certified service provider as defined in  
31 RCW 82.58.010 to administer its use tax responsibilities, the certified  
32 service provider may claim, on behalf of the seller, the credit or  
33 refund allowed by this section. The certified service provider must  
34 credit or refund the full amount received to the seller.

35       (6) The department shall allow an allocation of bad debts among  
36 member states to the streamlined sales and use tax agreement, as

1 defined in RCW 82.58.010(1), if the books and records of the person  
2 claiming bad debts support the allocation.

3 (7) A person's right to claim a credit or refund under this section  
4 is not assignable. No person other than the original seller in the  
5 transaction that generated the bad debt or, as provided in subsection  
6 (5) of this section, a certified service provider is entitled to claim  
7 a credit or refund under this section. If the original seller in the  
8 transaction that generated the bad debt has sold or assigned the debt  
9 instrument to a third party with recourse, the original seller may  
10 claim a credit or refund under this section only after the debt  
11 instrument is reassigned by the third party to the original seller.

12 NEW SECTION. Sec. 6. Sections 4 and 5 of this act apply to claims  
13 for credit or refund made after June 30, 2005.

14 NEW SECTION. Sec. 7. The legislature intends to supersede the  
15 holding of the supreme court of the state of Washington in *Puget Sound*  
16 *National Bank v. Department of Revenue*, 123 Wn.2d 284 (1994).

17 NEW SECTION. Sec. 8. The following acts or parts of acts are each  
18 repealed:

19 (1) RCW 82.04.062 ("Sale at wholesale," "sale at retail" excludes  
20 sale of precious metal bullion and monetized bullion--Computation of  
21 tax) and 1985 c 471 s 5;

22 (2) RCW 82.04.293 (International investment management services--  
23 Definitions) and 1997 c 7 s 3 & 1995 c 229 s 1;

24 (3) RCW 82.04.315 (Exemptions--International banking facilities)  
25 and 1982 c 95 s 7;

26 (4) RCW 82.04.317 (Exemptions--Motor vehicle sales by manufacturers  
27 at wholesale auctions to dealers) and 1997 c 4 s 1;

28 (5) RCW 82.04.4292 (Deductions--Interest on investments or loans  
29 secured by mortgages or deeds of trust) and 1980 c 37 s 12; and

30 (6) RCW 82.04.44525 (Credit--New employment for international  
31 service activities in eligible areas--Designation of census tracts for  
32 eligibility--Records--Tax due upon ineligibility--Interest assessment--  
33 Information from employment security department) and 1998 c 313 s 2.

1        NEW SECTION.   **Sec. 9.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   July 1, 2005.

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