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HOUSE BILL 2459

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State of Washington

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By Representatives Takko and Blake

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Committee on Finance.

1 AN ACT Relating to excise tax relief for tax proceeds lost due to  
2 theft; amending RCW 82.32.060; adding a new section to chapter 82.04  
3 RCW; adding a new section to chapter 82.08 RCW; adding a new section to  
4 chapter 82.12 RCW; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
7 to read as follows:

8 (1) In computing tax there may be deducted from the measure of tax  
9 the amount of any retail sale or wholesale sale if the proceeds from  
10 the sale have been lost due to theft.

11 (2) A deduction is allowed under this section only to the extent  
12 the loss is not covered by insurance or otherwise recovered. Tax  
13 proceeds subsequently recovered in whole or in part must be paid and  
14 reported on the return filed in the period in which the recovery is  
15 made.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW  
17 to read as follows:

1 (1) A seller is entitled to a credit for sales tax proceeds lost  
2 due to theft, if the theft was by a person other than the seller.

3 (2) A credit may be claimed under this section only to the extent  
4 that the loss is not covered by insurance or otherwise recovered. Tax  
5 proceeds subsequently recovered in whole or in part must be paid and  
6 reported on the return filed in the period in which the recovery is  
7 made.

8 (3) To claim a credit under this section, a seller must retain  
9 records that demonstrate that the seller appropriately reported to and  
10 received acknowledgment from law enforcement of the theft of the tax  
11 proceeds. The department may require additional documentation as  
12 necessary for administrative purposes.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW  
14 to read as follows:

15 (1) A seller is entitled to a credit for use tax proceeds lost due  
16 to theft, if the theft was by a person other than the seller.

17 (2) A credit may be claimed under this section only to the extent  
18 that the loss is not covered by insurance or otherwise recovered. Tax  
19 proceeds subsequently recovered in whole or in part must be paid and  
20 reported on the return filed in the period in which the recovery is  
21 made.

22 (3) To claim a credit under this section, a seller must retain  
23 records that demonstrate that the seller appropriately reported to and  
24 received acknowledgment from law enforcement of the theft of the tax  
25 proceeds. The department may require additional documentation as  
26 necessary for administrative purposes.

27 **Sec. 4.** RCW 82.32.060 and 2004 c 153 s 306 are each amended to  
28 read as follows:

29 (1) If, upon receipt of an application by a taxpayer for a refund  
30 or for an audit of the taxpayer's records, or upon an examination of  
31 the returns or records of any taxpayer, it is determined by the  
32 department that within the statutory period for assessment of taxes,  
33 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,  
34 penalty, or interest has been paid in excess of that properly due, the  
35 excess amount paid within, or attributable to, such period shall be  
36 credited to the taxpayer's account or shall be refunded to the

1 taxpayer, at the taxpayer's option. Except as provided in subsection  
2 (2) of this section, no refund or credit shall be made for taxes,  
3 penalties, or interest paid more than four years prior to the beginning  
4 of the calendar year in which the refund application is made or  
5 examination of records is completed.

6 (2)(a) The execution of a written waiver under RCW 82.32.050 or  
7 82.32.100 shall extend the time for making a refund or credit of any  
8 taxes paid during, or attributable to, the years covered by the waiver  
9 if, prior to the expiration of the waiver period, an application for  
10 refund of such taxes is made by the taxpayer or the department  
11 discovers a refund or credit is due.

12 (b) A refund or credit shall be allowed for an excess payment  
13 resulting from the failure to claim a (~~bad debt~~) deduction, credit,  
14 or refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150,  
15 (~~or~~) 82.16.050(5) (~~for debts that became bad debts under 26 U.S.C.~~  
16 ~~Sec. 166, as amended or renumbered as of January 1, 2003~~), section 1  
17 of this act, or section 2 of this act, less than four years prior to  
18 the beginning of the calendar year in which the refund application is  
19 made or examination of records is completed.

20 (3) Any such refunds shall be made by means of vouchers approved by  
21 the department and by the issuance of state warrants drawn upon and  
22 payable from such funds as the legislature may provide. However,  
23 taxpayers who are required to pay taxes by electronic funds transfer  
24 under RCW 82.32.080 shall have any refunds paid by electronic funds  
25 transfer.

26 (4) Any judgment for which a recovery is granted by any court of  
27 competent jurisdiction, not appealed from, for tax, penalties, and  
28 interest which were paid by the taxpayer, and costs, in a suit by any  
29 taxpayer shall be paid in the same manner, as provided in subsection  
30 (3) of this section, upon the filing with the department of a certified  
31 copy of the order or judgment of the court.

32 (a) Interest at the rate of three percent per annum shall be  
33 allowed by the department and by any court on the amount of any refund,  
34 credit, or other recovery allowed to a taxpayer for taxes, penalties,  
35 or interest paid by the taxpayer before January 1, 1992. This rate of  
36 interest shall apply for all interest allowed through December 31,  
37 1998. Interest allowed after December 31, 1998, shall be computed at

1 the rate as computed under RCW 82.32.050(2). The rate so computed  
2 shall be adjusted on the first day of January of each year for use in  
3 computing interest for that calendar year.

4 (b) For refunds or credits of amounts paid or other recovery  
5 allowed to a taxpayer after December 31, 1991, the rate of interest  
6 shall be the rate as computed for assessments under RCW 82.32.050(2)  
7 less one percent. This rate of interest shall apply for all interest  
8 allowed through December 31, 1998. Interest allowed after December 31,  
9 1998, shall be computed at the rate as computed under RCW 82.32.050(2).  
10 The rate so computed shall be adjusted on the first day of January of  
11 each year for use in computing interest for that calendar year.

12 (5) Interest allowed on a credit notice or refund issued after  
13 December 31, 2003, shall be computed as follows:

14 (a) If all overpayments for each calendar year and all reporting  
15 periods ending with the final month included in a notice or refund were  
16 made on or before the due date of the final return for each calendar  
17 year or the final reporting period included in the notice or refund:

18 (i) Interest shall be computed from January 31st following each  
19 calendar year included in a notice or refund; or

20 (ii) Interest shall be computed from the last day of the month  
21 following the final month included in a notice or refund.

22 (b) If the taxpayer has not made all overpayments for each calendar  
23 year and all reporting periods ending with the final month included in  
24 a notice or refund on or before the dates specified by RCW 82.32.045  
25 for the final return for each calendar year or the final month included  
26 in the notice or refund, interest shall be computed from the last day  
27 of the month following the date on which payment in full of the  
28 liabilities was made for each calendar year included in a notice or  
29 refund, and the last day of the month following the date on which  
30 payment in full of the liabilities was made if the final month included  
31 in a notice or refund is not the end of a calendar year.

32 (c) Interest included in a credit notice shall accrue up to the  
33 date the taxpayer could reasonably be expected to use the credit  
34 notice, as defined by the department's rules. If a credit notice is  
35 converted to a refund, interest shall be recomputed to the date the  
36 refund is issued, but not to exceed the amount of interest that would

1 have been allowed with the credit notice.

2 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2006.

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