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SENATE BILL 5904

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State of Washington                      59th Legislature                      2005 Regular Session

By Senator Pridemore; by request of Department of Revenue

Read first time 02/14/2005. Referred to Committee on Ways & Means.

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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