
SUBSTITUTE SENATE BILL 6385

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Doumit, Rasmussen, Fairley, Zarelli, Rockefeller, Brandland, Fraser, Pflug and Sheldon; by request of Governor Gregoire)

READ FIRST TIME 02/17/06.

1 AN ACT Relating to providing excise tax relief by modifying due
2 dates and eliminating an assessment penalty; amending RCW 82.32.045,
3 82.23B.020, 82.27.060, 82.32.085, and 82.32.105; creating new sections;
4 and providing effective dates.

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

6 **Sec. 1.** RCW 82.32.045 and 2003 1st sp.s. c 13 s 8 are each amended
7 to read as follows:

8 (1) Except as otherwise provided in this chapter, payments of the
9 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW,
10 along with reports and returns on forms prescribed by the department,
11 are due monthly within (~~twenty~~) twenty-five days after the end of the
12 month in which the taxable activities occur.

13 (2) The department of revenue may relieve any taxpayer or class of
14 taxpayers from the obligation of remitting monthly and may require the
15 return to cover other longer reporting periods, but in no event may
16 returns be filed for a period greater than one year. For these
17 taxpayers, tax payments are due on or before the last day of the month
18 next succeeding the end of the period covered by the return.

1 (3) The department of revenue may also require verified annual
2 returns from any taxpayer, setting forth such additional information as
3 it may deem necessary to correctly determine tax liability.

4 (4) Notwithstanding subsections (1) and (2) of this section, the
5 department may relieve any person of the requirement to file returns if
6 the following conditions are met:

7 (a) The person's value of products, gross proceeds of sales, or
8 gross income of the business, from all business activities taxable
9 under chapter 82.04 RCW, is less than twenty-eight thousand dollars per
10 year;

11 (b) The person's gross income of the business from all activities
12 taxable under chapter 82.16 RCW is less than twenty-four thousand
13 dollars per year; and

14 (c) The person is not required to collect or pay to the department
15 of revenue any other tax or fee which the department is authorized to
16 collect.

17 **Sec. 2.** RCW 82.23B.020 and 2003 1st sp.s. c 13 s 9 are each
18 amended to read as follows:

19 (1) An oil spill response tax is imposed on the privilege of
20 receiving crude oil or petroleum products at a marine terminal within
21 this state from a waterborne vessel or barge operating on the navigable
22 waters of this state. The tax imposed in this section is levied upon
23 the owner of the crude oil or petroleum products immediately after
24 receipt of the same into the storage tanks of a marine terminal from a
25 waterborne vessel or barge at the rate of one cent per barrel of crude
26 oil or petroleum product received.

27 (2) In addition to the tax imposed in subsection (1) of this
28 section, an oil spill administration tax is imposed on the privilege of
29 receiving crude oil or petroleum products at a marine terminal within
30 this state from a waterborne vessel or barge operating on the navigable
31 waters of this state. The tax imposed in this section is levied upon
32 the owner of the crude oil or petroleum products immediately after
33 receipt of the same into the storage tanks of a marine terminal from a
34 waterborne vessel or barge at the rate of four cents per barrel of
35 crude oil or petroleum product.

36 (3) The taxes imposed by this chapter shall be collected by the
37 marine terminal operator from the taxpayer. If any person charged with

1 collecting the taxes fails to bill the taxpayer for the taxes, or in
2 the alternative has not notified the taxpayer in writing of the
3 imposition of the taxes, or having collected the taxes, fails to pay
4 them to the department in the manner prescribed by this chapter,
5 whether such failure is the result of the person's own acts or the
6 result of acts or conditions beyond the person's control, he or she
7 shall, nevertheless, be personally liable to the state for the amount
8 of the taxes. Payment of the taxes by the owner to a marine terminal
9 operator shall relieve the owner from further liability for the taxes.

10 (4) Taxes collected under this chapter shall be held in trust until
11 paid to the department. Any person collecting the taxes who
12 appropriates or converts the taxes collected shall be guilty of a gross
13 misdemeanor if the money required to be collected is not available for
14 payment on the date payment is due. The taxes required by this chapter
15 to be collected shall be stated separately from other charges made by
16 the marine terminal operator in any invoice or other statement of
17 account provided to the taxpayer.

18 (5) If a taxpayer fails to pay the taxes imposed by this chapter to
19 the person charged with collection of the taxes and the person charged
20 with collection fails to pay the taxes to the department, the
21 department may, in its discretion, proceed directly against the
22 taxpayer for collection of the taxes.

23 (6) The taxes shall be due from the marine terminal operator, along
24 with reports and returns on forms prescribed by the department, within
25 (~~twenty~~) twenty-five days after the end of the month in which the
26 taxable activity occurs.

27 (7) The amount of taxes, until paid by the taxpayer to the marine
28 terminal operator or to the department, shall constitute a debt from
29 the taxpayer to the marine terminal operator. Any person required to
30 collect the taxes under this chapter who, with intent to violate the
31 provisions of this chapter, fails or refuses to do so as required and
32 any taxpayer who refuses to pay any taxes due under this chapter, shall
33 be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

34 (8) Upon prior approval of the department, the taxpayer may pay the
35 taxes imposed by this chapter directly to the department. The
36 department shall give its approval for direct payment under this
37 section whenever it appears, in the department's judgment, that direct
38 payment will enhance the administration of the taxes imposed under this

1 chapter. The department shall provide by rule for the issuance of a
2 direct payment certificate to any taxpayer qualifying for direct
3 payment of the taxes. Good faith acceptance of a direct payment
4 certificate by a terminal operator shall relieve the marine terminal
5 operator from any liability for the collection or payment of the taxes
6 imposed under this chapter.

7 (9) All receipts from the tax imposed in subsection (1) of this
8 section shall be deposited into the state oil spill response account.
9 All receipts from the tax imposed in subsection (2) of this section
10 shall be deposited into the oil spill prevention account.

11 (10) Within forty-five days after the end of each calendar quarter,
12 the office of financial management shall determine the balance of the
13 oil spill response account as of the last day of that calendar quarter.
14 Balance determinations by the office of financial management under this
15 section are final and shall not be used to challenge the validity of
16 any tax imposed under this chapter. The office of financial management
17 shall promptly notify the departments of revenue and ecology of the
18 account balance once a determination is made. For each subsequent
19 calendar quarter, the tax imposed by subsection (1) of this section
20 shall be imposed during the entire calendar quarter unless:

21 (a) Tax was imposed under subsection (1) of this section during the
22 immediately preceding calendar quarter, and the most recent quarterly
23 balance is more than nine million dollars; or

24 (b) Tax was not imposed under subsection (1) of this section during
25 the immediately preceding calendar quarter, and the most recent
26 quarterly balance is more than eight million dollars.

27 **Sec. 3.** RCW 82.27.060 and 2003 1st sp.s. c 13 s 10 are each
28 amended to read as follows:

29 The taxes levied by this chapter shall be due for payment monthly
30 and remittance therefor shall be made within (~~twenty~~) twenty-five
31 days after the end of the month in which the taxable activity occurs.
32 The taxpayer on or before the due date shall make out a signed return,
33 setting out such information as the department of revenue may require,
34 including the gross measure of the tax, any deductions, credits, or
35 exemptions claimed, and the amount of tax due for the preceding monthly
36 period, which amount shall be transmitted to the department along with
37 the return.

1 The department may relieve any taxpayer from the obligation of
2 filing a monthly return and may require the return to cover other
3 periods, but in no event may periodic returns be filed for a period
4 greater than one year. In such cases tax payments are due on or before
5 the last day of the month next succeeding the end of the period covered
6 by the return.

7 **Sec. 4.** RCW 82.32.085 and 1990 c 69 s 3 are each amended to read
8 as follows:

9 (1) "Electronic funds transfer" means any transfer of funds, other
10 than a transaction originated by check, drafts, or similar paper
11 instrument, which is initiated through an electronic terminal,
12 telephonic instrument, or computer or magnetic tape so as to order,
13 instruct, or authorize a financial institution to debit or credit an
14 account.

15 ~~((The electronic funds transfer is to be completed so that the
16 state receives collectible funds on or before the next banking day
17 following the due date.))~~

18 (2)(a) Except as provided in (b) of this subsection, the electronic
19 funds transfer is to be completed so that the state receives
20 collectible funds on or before the next banking day following the due
21 date.

22 (b) A remittance made using the automated clearinghouse debit
23 method will be deemed to be received on the due date if the electronic
24 funds transfer is initiated on or before 11:59 p.m. pacific time on the
25 due date with an effective payment date on or before the next banking
26 day following the due date.

27 (3)(a) The department shall adopt rules necessary to implement the
28 provisions of RCW 82.32.080 and this section. The rules shall include
29 but are not limited to: ~~((1))~~ (i) Coordinating the filing of tax
30 returns with payment by electronic funds transfer; ~~((2))~~ (ii) form
31 and content of electronic funds transfer; ~~((3))~~ (iii) voluntary use
32 of electronic funds transfer with permission of the department; ~~((4))~~
33 (iv) use of commonly accepted means of electronic funds transfer;
34 ~~((5))~~ (v) means of crediting and recording proof of payment; and
35 ~~((6))~~ (vi) means of correcting errors in transmission.

36 (b) Any changes in the threshold of tax shall be implemented with
37 a separate rule-making procedure.

1 NEW SECTION. **Sec. 5.** (1) The legislature recognizes the following
2 with respect to the payment of excise taxes to the department of
3 revenue by electronic funds transfer:

4 (a) Taxpayers required to pay their taxes by electronic funds
5 transfer must do so through the use of either the automated
6 clearinghouse debit method or automated clearinghouse credit method;

7 (b) For a remittance by electronic funds transfer to be considered
8 timely, the transfer must be completed so that the state receives
9 collectible funds on or before the next banking day following the due
10 date;

11 (c) For the state to receive collectible funds on or before the
12 next banking day following the due date, taxpayers using the automated
13 clearinghouse debit method must initiate the transfer before 5:00 p.m.
14 pacific time on the due date;

15 (d) The department of revenue receives information identifying the
16 precise date and time the electronic funds transfer is initiated when
17 a taxpayer uses the debit method; and

18 (e) The department receives information identifying only the date
19 that the state receives collectible funds when a taxpayer uses the
20 automated clearinghouse credit method.

21 (2) The legislature therefore finds that a remittance made using
22 the automated clearinghouse debit method should be deemed to be
23 received on the due date if the transfer is initiated on or before
24 11:59 p.m. pacific time on the due date with an effective payment date
25 on or before the next banking day following the due date. The
26 legislature further finds that because the department does not receive
27 information about when an electronic funds transfer is initiated when
28 a taxpayer uses the automated clearinghouse credit method, such
29 transfers must be completed so that the state receives collectible
30 funds on or before the next banking day following the due date.

31 **Sec. 6.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to read
32 as follows:

33 (1) If the department of revenue finds that the payment by a
34 taxpayer of a tax less than that properly due or the failure of a
35 taxpayer to pay any tax by the due date was the result of circumstances
36 beyond the control of the taxpayer, the department of revenue shall

1 waive or cancel any penalties imposed under this chapter with respect
2 to such tax.

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

7 (a) The taxpayer requests the waiver for a tax return required to
8 be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060,
9 82.29A.050, or 84.33.086; and

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

14 (3) The department shall waive or cancel the initial five percent
15 assessment penalty imposed under RCW 82.32.090(2) when the
16 circumstances under which the deficiency occurred do not qualify for
17 waiver or cancellation under subsection (1) of this section if:

18 (a) The taxpayer requests the waiver for a single tax return
19 required to be filed under RCW 82.32.045, 82.14B.061, 82.23B.020,
20 82.27.060, 82.29A.050, or 84.33.086, whether or not the assessment
21 covers a single tax return or multiple tax returns;

22 (b) The taxpayer has timely filed and remitted payment on all tax
23 returns due for that tax program for a period of twelve months
24 immediately preceding the earliest reporting period included in the
25 assessment for which the waiver is being requested;

26 (c) The penalty is not included in an assessment involving more
27 than a twelve-month period; and

28 (d) The amount of underpaid tax included in the assessment is no
29 more than twenty percent of the total tax due for the period or periods
30 included in the assessment.

31 (4) The department shall waive or cancel interest imposed under
32 this chapter if:

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

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

1 (~~(4)~~) (5) The department of revenue shall adopt rules for the
2 waiver or cancellation of penalties and interest imposed by this
3 chapter.

4 NEW SECTION. **Sec. 7.** (1) Sections 1 through 3 of this act apply
5 to returns due after July 31, 2006.

6 (2) Section 4 of this act applies to payments due after July 31,
7 2006.

8 (3) Section 6 of this act only applies to assessments originally
9 issued after June 30, 2006.

10 NEW SECTION. **Sec. 8.** This act does not affect any existing right
11 acquired or liability or obligation incurred under the sections amended
12 in this act or under any rule or order adopted under those sections,
13 nor does it affect any proceeding instituted under those sections.

14 NEW SECTION. **Sec. 9.** (1) Sections 1 through 4 of this act take
15 effect August 1, 2006.

16 (2) Sections 6 and 7 of this act take effect July 1, 2006.

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