
SUBSTITUTE SENATE BILL 6557

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Kohl-Welles and Keiser)

READ FIRST TIME 01/30/06.

1 AN ACT Relating to the taxation of motion picture and video
2 production services; amending RCW 82.04.460 and 82.08.0315; and adding
3 a new section to chapter 82.04 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW,
6 to be codified between RCW 82.04.230 and 82.04.298, to read as follows:

7 (1)(a) Except as provided in (b) of this subsection, upon every
8 person engaging within this state in the business of motion picture or
9 video production or providing production services; as to such persons
10 the amount of tax with respect to such business shall be equal to the
11 gross income of the business multiplied by the rate of 0.484 percent.

12 (b) The business of receiving royalties or charges in the nature of
13 royalties as defined in RCW 82.04.2907 shall continue to be taxable
14 under RCW 82.04.2907.

15 (2) For the purposes of this section:

16 (a) "Motion picture or video production" means the creation of a
17 recorded audio-visual production, other than one or more segments of a
18 newscast or sporting event, intended for distribution to theaters, DVD,

1 video, or the internet, or television, or one or more episodes of a
2 single television series, or a commercial produced for broadcast
3 television.

4 (b) "Production services" means motion picture and video
5 processing, printing, editing, duplicating, animation, graphics,
6 special effects, negative cutting, conversions to other formats or
7 media, stock footage, sound mixing, rerecording, sound sweetening,
8 sound looping, sound effects, and automatic dialog replacement, when
9 these activities are provided in respect to a motion picture or video
10 production.

11 **Sec. 2.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to read
12 as follows:

13 (1) Any person rendering services taxable under RCW 82.04.290,
14 section 1 of this act, other than services defined as a retail sale
15 when rendered to or for consumers, or RCW 82.04.2908 and maintaining
16 places of business both within and without this state which contribute
17 to the rendition of such services shall, for the purpose of computing
18 tax liability under RCW 82.04.290, section 1 of this act, or RCW
19 82.04.2908, apportion to this state that portion of the person's gross
20 income which is derived from services rendered within this state.
21 Where such apportionment cannot be accurately made by separate
22 accounting methods, the taxpayer shall apportion to this state that
23 proportion of the taxpayer's total income which the cost of doing
24 business within the state bears to the total cost of doing business
25 both within and without the state.

26 (2) Notwithstanding the provision of subsection (1) of this
27 section, persons doing business both within and without the state who
28 receive gross income from service charges, as defined in RCW 63.14.010
29 (relating to amounts charged for granting the right or privilege to
30 make deferred or installment payments) or who receive gross income from
31 engaging in business as financial institutions within the scope of
32 chapter 82.14A RCW (relating to city taxes on financial institutions)
33 shall apportion or allocate gross income taxable under RCW 82.04.290 to
34 this state pursuant to rules promulgated by the department consistent
35 with uniform rules for apportionment or allocation developed by the
36 states.

1 (3) The department shall by rule provide a method or methods of
2 apportioning or allocating gross income derived from sales of telephone
3 services taxed under this chapter, if the gross proceeds of sales
4 subject to tax under this chapter do not fairly represent the extent of
5 the taxpayer's income attributable to this state. The rules shall be,
6 so far as feasible, consistent with the methods of apportionment
7 contained in this section and shall require the consideration of those
8 facts, circumstances, and apportionment factors as will result in an
9 equitable and constitutionally permissible division of the services.

10 **Sec. 3.** RCW 82.08.0315 and 1997 c 61 s 1 are each amended to read
11 as follows:

12 (1) As used in this section:

13 (a) "Production equipment" means the following when used in motion
14 picture (~~(or video)~~) production or postproduction: Grip and lighting
15 equipment, cameras, camera mounts including tripods, jib arms,
16 steadicams, and other camera mounts, cranes, dollies, generators,
17 helicopter mounts, helicopters rented for motion picture or video
18 production, walkie talkies, vans, trucks, and other vehicles
19 specifically equipped for motion picture or video production or used
20 solely for production activities, wardrobe and makeup trailers, special
21 effects and stunt equipment, video assists, videotape recorders, cables
22 and connectors, (~~(telepromoters [teleprompters])~~) teleprompters, sound
23 recording equipment, and editorial equipment.

24 (b) "Production services" means motion picture and video
25 processing, printing, editing, duplicating, animation, graphics,
26 special effects, negative cutting, conversions to other formats or
27 media, stock footage, sound mixing, rerecording, sound sweetening,
28 sound looping, sound effects, and automatic dialog replacement.

29 (c) "Motion picture or video production business" means a person
30 engaged in the (~~(production of motion pictures and video tapes for
31 exhibition, sale, or for broadcast by a person other than the person
32 producing the motion picture or video tape)~~) creation of a recorded
33 audio-visual production, other than one or more segments of a newscast
34 or sporting event, intended for distribution to theaters, DVD, video,
35 or the internet, or television, or one or more episodes of a single
36 television series, or a commercial produced for broadcast television.

1 (2) The tax levied by RCW 82.08.020 does not apply to the rental of
2 production equipment, or the sale of production services, to a motion
3 picture or video production business.

4 (3) The exemption provided for in this section shall not apply to
5 rental of production equipment, or the sale of production services, to
6 a motion picture or video production business that is engaged, to any
7 degree, in the production of erotic material, as defined in RCW
8 9.68.050.

9 (4) In order to claim an exemption under this section, the
10 purchaser must provide the seller with an exemption certificate in a
11 form and manner prescribed by the department. The seller shall retain
12 a copy of the certificate for the seller's files.

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