
SUBSTITUTE SENATE BILL 6604

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on International Trade & Economic Development
(originally sponsored by Senators Prentice, Rasmussen and McAuliffe;
by request of Governor Gregoire)

READ FIRST TIME 01/26/06.

1 AN ACT Relating to providing excise tax relief for aerospace
2 businesses; amending RCW 82.04.250, 82.04.440, 82.32.590, 82.32.600,
3 and 82.04.4463; reenacting and amending RCW 82.04.260 and 82.32.330;
4 adding a new section to chapter 82.08 RCW; adding a new section to
5 chapter 82.12 RCW; adding new sections to chapter 82.04 RCW; adding a
6 new section to chapter 82.32 RCW; creating a new section; providing
7 effective dates; and providing expiration dates.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
10 to read as follows:

11 (1) The tax levied by RCW 82.08.020 does not apply to sales of
12 computer hardware, computer peripherals, or software, used primarily in
13 aerospace product development, or to sales of or charges made for labor
14 and services rendered in respect to installing the computer hardware,
15 computer peripherals, or software. The exemption is available only
16 when the buyer provides the seller with an exemption certificate in a
17 form and manner prescribed by the department. The seller shall retain
18 a copy of the certificate for the seller's files.

19 (2) As used in this section:

1 (a) "Aerospace product development" means research, design, and
2 engineering activities performed in relation to the development of:

3 (i) Commercial airplanes and components of such airplanes;

4 (ii) Tooling that is used in the manufacture of commercial
5 airplanes or components of such airplanes;

6 (iii) Maintenance, repair, or overhaul support equipment that is
7 used by airlines or others in the aftermarket support of commercial
8 airplanes;

9 (iv) Ground support equipment, including service, maintenance, and
10 test equipment, that is used by airlines or others to support
11 aeronautical operations and related activities; or

12 (v) General aviation aircraft and components of such aircraft.

13 (b) "Commercial airplane" and "component" have the meanings
14 provided in RCW 82.32.550.

15 (c) "General aviation aircraft" means aircraft used in that segment
16 of civil aviation that encompasses all facets of aviation except air
17 carriers, commuter, and military. It includes aircraft used for
18 charter and corporate-executive transportation, instruction, rental,
19 aerial application, aerial observation, business, pleasure, and other
20 special uses.

21 (d) "Peripherals" includes keyboards, monitors, mouse devices, and
22 other accessories that operate outside of the computer, excluding
23 cables, conduit, wiring, and other similar property.

24 (3) This section expires July 1, 2024.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW
26 to read as follows:

27 (1) The provisions of this chapter do not apply in respect to the
28 use of computer hardware, computer peripherals, or software, used
29 primarily in aerospace product development, or to the use of labor and
30 services rendered in respect to installing the computer hardware,
31 computer peripherals, or software.

32 (2) The definitions in section 1 of this act apply to this section.

33 (3) This section expires July 1, 2024.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
35 to read as follows:

1 (1) In computing the tax imposed under this chapter, a credit is
2 allowed for each person for qualified aerospace product development
3 expenditures occurring after the effective date of this section.

4 (2) The credit is equal to the amount of qualified aerospace
5 product development expenditures of a person, multiplied by the rate of
6 1.5 percent.

7 (3) The credit shall be taken against taxes due for the same
8 calendar year in which the qualified aerospace product development
9 expenditures are incurred. Credits may not be carried over. The
10 credit for each calendar year may not exceed the amount of tax
11 otherwise due under this chapter for the calendar year. Refunds may
12 not be granted in the place of a credit.

13 (4) Any person entitled to the credit in this section as a result
14 of qualified aerospace product development conducted under contract may
15 assign all or any portion of the credit to the person contracting for
16 the performance of the qualified aerospace product development.

17 (5) The definitions in this subsection apply throughout this
18 section.

19 (a)(i) "Aerospace product development" means research, design, and
20 engineering activities performed in relation to the development of a
21 product, product line, model, or model derivative, including prototype
22 development, testing, and certification. The development of a product,
23 product line, model, or model derivative, shall be for:

24 (A) Commercial airplanes and components of such airplanes;

25 (B) Tooling that is used in the manufacture of commercial airplanes
26 or components of such airplanes;

27 (C) Maintenance, repair, or overhaul support equipment that is used
28 by airlines or others in the aftermarket support of commercial
29 airplanes;

30 (D) Ground support equipment, including service, maintenance, and
31 test equipment, that is used by airlines or others to support
32 aeronautical operations and related activities; or

33 (E) General aviation aircraft and components of such aircraft.

34 (ii) "Aerospace product development" includes the discovery of
35 technological information, the translating of technological information
36 into new or improved products, processes, techniques, formulas, or
37 inventions, and the adaptation of existing products and models into new
38 products or new models, or derivatives of products or models. The term

1 does not include manufacturing activities or other production-oriented
2 activities. The term does not include surveys and studies, social
3 science and humanities research, market research or testing, quality
4 control, sale promotion and service, computer software developed for
5 internal use, and research in areas such as improved style, taste, and
6 seasonal design.

7 (b) "General aviation aircraft" means aircraft used in that segment
8 of civil aviation that encompasses all facets of aviation except air
9 carriers, commuter, and military. It includes aircraft used for
10 charter and corporate-executive transportation, instruction, rental,
11 aerial application, aerial observation, business, pleasure, and other
12 special uses.

13 (c) "Qualified aerospace product development" means aerospace
14 product development performed within this state.

15 (d) "Qualified aerospace product development expenditures" means
16 operating expenses, including wages, compensation of a proprietor or a
17 partner in a partnership as determined by the department, benefits,
18 supplies, and computer expenses, directly incurred in qualified
19 aerospace product development by a person claiming the credit provided
20 in this section. The term does not include amounts paid to a person
21 other than a public educational or research institution to conduct
22 qualified aerospace product development. The term does not include
23 capital costs and overhead, such as expenses for land, structures, or
24 depreciable property.

25 (6) Credit may not be claimed for expenditures for which a credit
26 is claimed under RCW 82.04.4452 or 82.04.4461.

27 (7) This section expires July 1, 2024.

28 **Sec. 4.** RCW 82.04.250 and 2003 2nd sp.s. c 1 s 2 are each amended
29 to read as follows:

30 (1) Upon every person (~~(except persons taxable under RCW 82.04.260~~
31 ~~(5) or (13), 82.04.272, or subsection (2) of this section))~~ engaging
32 within this state in the business of making sales at retail, except
33 persons taxable as retailers under other provisions of this chapter, as
34 to such persons, the amount of tax with respect to such business shall
35 be equal to the gross proceeds of sales of the business, multiplied by
36 the rate of 0.471 percent.

1 (2) Upon every person engaging within this state in the business of
2 making sales at retail that are exempt from the tax imposed under
3 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
4 82.08.0263, except persons taxable under RCW 82.04.260 (~~((+13))~~) (11) or
5 (12), or subsection (3) of this section, as to such persons, the amount
6 of tax with respect to such business shall be equal to the gross
7 proceeds of sales of the business, multiplied by the rate of 0.484
8 percent.

9 (3) Until July 1, 2011, upon every person engaging within this
10 state in the business of making sales at retail that are exempt from
11 the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,
12 82.08.0262, or 82.08.0263, that is classified by the federal aviation
13 administration as a FAR part 145 certificated repair station with
14 airframe and instrument ratings and limited ratings for nondestructive
15 testing, radio, class 3 accessory, and specialized services, as to such
16 persons, the amount of tax with respect to such business shall be equal
17 to the gross proceeds of sales of the business, multiplied by the rate
18 of .2904 percent.

19 **Sec. 5.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are
20 each reenacted and amended to read as follows:

21 (1) Upon every person engaging within this state in the business of
22 manufacturing:

23 (a) Wheat into flour, barley into pearl barley, soybeans into
24 soybean oil, canola into canola oil, canola meal, or canola byproducts,
25 or sunflower seeds into sunflower oil; as to such persons the amount of
26 tax with respect to such business shall be equal to the value of the
27 flour, pearl barley, oil, canola meal, or canola byproduct
28 manufactured, multiplied by the rate of 0.138 percent;

29 (b) Seafood products which remain in a raw, raw frozen, or raw
30 salted state at the completion of the manufacturing by that person; as
31 to such persons the amount of tax with respect to such business shall
32 be equal to the value of the products manufactured, multiplied by the
33 rate of 0.138 percent;

34 (c) 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 multiplied by
3 the rate of 0.138 percent. As proof of sale to a person who transports
4 in the ordinary course of business goods out of this state, the seller
5 shall annually provide a statement in a form prescribed by the
6 department and retain the statement as a business record;

7 (d) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
8 feedstock, as those terms are defined in RCW 82.29A.135; as to such
9 persons the amount of tax with respect to the business shall be equal
10 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
11 manufactured, multiplied by the rate of 0.138 percent; and

12 (e) Alcohol fuel or wood biomass fuel, as those terms are defined
13 in RCW 82.29A.135; as to such persons the amount of tax with respect to
14 the business shall be equal to the value of alcohol fuel or wood
15 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

16 (2) Upon every person engaging within this state in the business of
17 splitting or processing dried peas; as to such persons the amount of
18 tax with respect to such business shall be equal to the value of the
19 peas split or processed, multiplied by the rate of 0.138 percent.

20 (3) Upon every nonprofit corporation and nonprofit association
21 engaging within this state in research and development, as to such
22 corporations and associations, the amount of tax with respect to such
23 activities shall be equal to the gross income derived from such
24 activities multiplied by the rate of 0.484 percent.

25 (4) Upon every person engaging within this state in the business of
26 slaughtering, breaking and/or processing perishable meat products
27 and/or selling the same at wholesale only and not at retail; as to such
28 persons the tax imposed shall be equal to the gross proceeds derived
29 from such sales multiplied by the rate of 0.138 percent.

30 (5) Upon every person engaging within this state in the business of
31 acting as a travel agent or tour operator; as to such persons the
32 amount of the tax with respect to such activities shall be equal to the
33 gross income derived from such activities multiplied by the rate of
34 0.275 percent.

35 (6) Upon every person engaging within this state in business as an
36 international steamship agent, international customs house broker,
37 international freight forwarder, vessel and/or cargo charter broker in
38 foreign commerce, and/or international air cargo agent; as to such

1 persons the amount of the tax with respect to only international
2 activities shall be equal to the gross income derived from such
3 activities multiplied by the rate of 0.275 percent.

4 (7) Upon every person engaging within this state in the business of
5 stevedoring and associated activities pertinent to the movement of
6 goods and commodities in waterborne interstate or foreign commerce; as
7 to such persons the amount of tax with respect to such business shall
8 be equal to the gross proceeds derived from such activities multiplied
9 by the rate of 0.275 percent. Persons subject to taxation under this
10 subsection shall be exempt from payment of taxes imposed by chapter
11 82.16 RCW for that portion of their business subject to taxation under
12 this subsection. Stevedoring and associated activities pertinent to
13 the conduct of goods and commodities in waterborne interstate or
14 foreign commerce are defined as all activities of a labor, service or
15 transportation nature whereby cargo may be loaded or unloaded to or
16 from vessels or barges, passing over, onto or under a wharf, pier, or
17 similar structure; cargo may be moved to a warehouse or similar holding
18 or storage yard or area to await further movement in import or export
19 or may move to a consolidation freight station and be stuffed,
20 unstuffed, containerized, separated or otherwise segregated or
21 aggregated for delivery or loaded on any mode of transportation for
22 delivery to its consignee. Specific activities included in this
23 definition are: Wharfage, handling, loading, unloading, moving of
24 cargo to a convenient place of delivery to the consignee or a
25 convenient place for further movement to export mode; documentation
26 services in connection with the receipt, delivery, checking, care,
27 custody and control of cargo required in the transfer of cargo;
28 imported automobile handling prior to delivery to consignee; terminal
29 stevedoring and incidental vessel services, including but not limited
30 to plugging and unplugging refrigerator service to containers,
31 trailers, and other refrigerated cargo receptacles, and securing ship
32 hatch covers.

33 (8) Upon every person engaging within this state in the business of
34 disposing of low-level waste, as defined in RCW 43.145.010; as to such
35 persons the amount of the tax with respect to such business shall be
36 equal to the gross income of the business, excluding any fees imposed
37 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

1 If the gross income of the taxpayer is attributable to activities
2 both within and without this state, the gross income attributable to
3 this state shall be determined in accordance with the methods of
4 apportionment required under RCW 82.04.460.

5 (9) Upon every person engaging within this state as an insurance
6 agent, insurance broker, or insurance solicitor licensed under chapter
7 48.17 RCW; as to such persons, the amount of the tax with respect to
8 such licensed activities shall be equal to the gross income of such
9 business multiplied by the rate of 0.484 percent.

10 (10) Upon every person engaging within this state in business as a
11 hospital, as defined in chapter 70.41 RCW, that is operated as a
12 nonprofit corporation or by the state or any of its political
13 subdivisions, as to such persons, the amount of tax with respect to
14 such activities shall be equal to the gross income of the business
15 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
16 percent thereafter. The moneys collected under this subsection shall
17 be deposited in the health services account created under RCW
18 43.72.900.

19 (11)(a) Beginning October 1, 2005, upon every person engaging
20 within this state in the business of manufacturing commercial
21 airplanes, or components of such airplanes, as to such persons the
22 amount of tax with respect to such business shall, in the case of
23 manufacturers, be equal to the value of the product manufactured, or in
24 the case of processors for hire, be equal to the gross income of the
25 business, multiplied by the rate of:

26 (i) 0.4235 percent from October 1, 2005, through the later of June
27 30, 2007, or the day preceding the date final assembly of a
28 superefficient airplane begins in Washington state, as determined under
29 RCW 82.32.550; and

30 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the
31 date final assembly of a superefficient airplane begins in Washington
32 state, as determined under RCW 82.32.550.

33 (b) Beginning October 1, 2005, upon every person engaging within
34 this state in the business of making sales, at retail or wholesale, of
35 commercial airplanes, or components of such airplanes, manufactured by
36 that person, as to such persons the amount of tax with respect to such
37 business shall be equal to the gross proceeds of sales of the airplanes
38 or components 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 (c) For the purposes of this subsection (11), "commercial
9 airplane," "component," and "final assembly of a superefficient
10 airplane" have the meanings given in RCW 82.32.550.

11 (d) In addition to all other requirements under this title, a
12 person eligible for the tax rate under this subsection (11) must report
13 as required under RCW 82.32.545.

14 (e) This subsection (11) does not apply after the earlier of: July
15 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
16 does not begin by December 31, 2007, as determined under RCW 82.32.550.

17 (12)(a) Upon every person engaging within this state in the
18 business of manufacturing the following: (i) Tooling that is used in
19 the manufacture of commercial airplanes or components of such
20 airplanes; (ii) maintenance, repair, or overhaul support equipment that
21 is used by airlines or others in the aftermarket support of commercial
22 airplanes; (iii) ground support equipment, including service,
23 maintenance, and test equipment, that is used by airlines or others in
24 support of commercial airplanes; or (iv) general aviation aircraft, as
25 defined in section 3 of this act, or components of such aircraft; as to
26 such persons the amount of the tax with respect to the business shall,
27 in the case of manufacturers, be equal to the value of the product
28 manufactured, or in the case of processors for hire, be equal to the
29 gross income of the business, multiplied by the rate of 0.2904 percent.

30 (b) Upon every person engaging within this state in the business of
31 making sales, at retail or wholesale, of the following: (i) Tooling
32 that is used in the manufacture of commercial airplanes or components
33 of such airplanes; (ii) maintenance, repair, or overhaul support
34 equipment that is used by airlines or others in the aftermarket support
35 of commercial airplanes; (iii) ground support equipment, including
36 service, maintenance, and test equipment, that is used by airlines or
37 others in support of commercial airplanes; or (iv) general aviation
38 aircraft, as defined in section 3 of this act, or components of such

1 aircraft; as to such persons the amount of the tax with respect to the
2 business shall be equal to the gross proceeds of sales, multiplied by
3 the rate of 0.2904 percent.

4 NEW SECTION. Sec. 6. A new section is added to chapter 82.04 RCW
5 to read as follows:

6 (1) In computing the tax imposed under this chapter, a credit is
7 allowed for property taxes paid during the calendar year.

8 (2) The credit is equal to:

9 (a)(i) Property taxes paid on new buildings, and land upon which
10 this property is located, built after the effective date of this act,
11 and used exclusively in manufacturing:

12 (A) Tooling that is used in the manufacture of commercial airplanes
13 or components of such airplanes;

14 (B) Maintenance, repair, or overhaul support equipment that is used
15 by airlines or others in the aftermarket support of commercial
16 airplanes;

17 (C) Ground support equipment, including service, maintenance, and
18 test equipment, that is used by airlines or others to support
19 aeronautical operations and related activities; or

20 (D) General aviation aircraft and components of such aircraft; or

21 (ii) Property taxes attributable to an increase in assessed value
22 due to the renovation or expansion, after the effective date of this
23 act, of a building used exclusively in manufacturing activities
24 described in (a)(i)(A) through (D) of this subsection; and

25 (b) Property taxes paid on machinery and equipment exempt under RCW
26 82.08.02565 or 82.12.02565 and used exclusively in the manufacturing
27 activities described in (a)(i)(A) through (D) of this subsection.

28 (3) A person taking the credit under this section is subject to all
29 the requirements of chapter 82.32 RCW. A credit earned during one
30 calendar year may be carried over to be credited against taxes incurred
31 in a subsequent calendar year, but may not be carried over a second
32 year. No refunds may be granted for credits under this section.

33 (4) In addition to all other requirements under this title, a
34 person taking the credit under this section must report as required
35 under section 8 of this act.

36 (5) A person shall not take a credit under this section and RCW
37 82.04.4463.

1 (6) This section expires July 1, 2024.

2 **Sec. 7.** RCW 82.04.440 and 2005 c 301 s 3 are each amended to read
3 as follows:

4 (1) Every person engaged in activities which are within the purview
5 of the provisions of two or more of sections RCW 82.04.230 to
6 82.04.298, inclusive, shall be taxable under each paragraph applicable
7 to the activities engaged in.

8 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,
9 82.04.294(2), or 82.04.260 (4) (~~or (13)~~), (11), or (12) with respect
10 to selling products in this state shall be allowed a credit against
11 those taxes for any (a) manufacturing taxes paid with respect to the
12 manufacturing of products so sold in this state, and/or (b) extracting
13 taxes paid with respect to the extracting of products so sold in this
14 state or ingredients of products so sold in this state. Extracting
15 taxes taken as credit under subsection (3) of this section may also be
16 taken under this subsection, if otherwise allowable under this
17 subsection. The amount of the credit shall not exceed the tax
18 liability arising under this chapter with respect to the sale of those
19 products.

20 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be
21 allowed a credit against those taxes for any extracting taxes paid with
22 respect to extracting the ingredients of the products so manufactured
23 in this state. The amount of the credit shall not exceed the tax
24 liability arising under this chapter with respect to the manufacturing
25 of those products.

26 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),
27 82.04.294(1), or 82.04.260 (1), (2), (4), (~~(6), or (13)~~) (11), or
28 (12) with respect to extracting or manufacturing products in this state
29 shall be allowed a credit against those taxes for any (i) gross
30 receipts taxes paid to another state with respect to the sales of the
31 products so extracted or manufactured in this state, (ii) manufacturing
32 taxes paid with respect to the manufacturing of products using
33 ingredients so extracted in this state, or (iii) manufacturing taxes
34 paid with respect to manufacturing activities completed in another
35 state for products so manufactured in this state. The amount of the
36 credit shall not exceed the tax liability arising under this chapter
37 with respect to the extraction or manufacturing of those products.

1 (5) For the purpose of this section:

2 (a) "Gross receipts tax" means a tax:

3 (i) Which is imposed on or measured by the gross volume of
4 business, in terms of gross receipts or in other terms, and in the
5 determination of which the deductions allowed would not constitute the
6 tax an income tax or value added tax; and

7 (ii) Which is also not, pursuant to law or custom, separately
8 stated from the sales price.

9 (b) "State" means (i) the state of Washington, (ii) a state of the
10 United States other than Washington, or any political subdivision of
11 such other state, (iii) the District of Columbia, and (iv) any foreign
12 country or political subdivision thereof.

13 (c) "Manufacturing tax" means a gross receipts tax imposed on the
14 act or privilege of engaging in business as a manufacturer, and
15 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1),
16 82.04.260 (1), (2), (4), (11), and (~~(13)~~) (12), and 82.04.294(1); and
17 (ii) similar gross receipts taxes paid to other states.

18 (d) "Extracting tax" means a gross receipts tax imposed on the act
19 or privilege of engaging in business as an extractor, and includes the
20 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
21 other states.

22 (e) "Business", "manufacturer", "extractor", and other terms used
23 in this section have the meanings given in RCW 82.04.020 through
24 82.04.212, notwithstanding the use of those terms in the context of
25 describing taxes imposed by other states.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.32 RCW
27 to read as follows:

28 (1) The legislature finds that accountability and effectiveness are
29 important aspects of setting tax policy. In order to make policy
30 choices regarding the best use of limited state resources the
31 legislature needs information on how a tax incentive is used.

32 (2)(a) A person claiming a tax incentive shall file a complete
33 annual survey with the department. The survey is due by March 31st
34 following any year in which a tax incentive is claimed. The department
35 may extend the due date for timely filing of annual surveys under this
36 section as provided in RCW 82.32.590. The survey shall include the
37 amount of any tax incentive claimed. For a person claiming a credit

1 under section 3 of this act, the survey shall also include the
2 qualified aerospace product development expenditures during the
3 calendar year for which the credit was claimed, whether the credit has
4 been assigned under section 3(4) of this act and who assigned the
5 credit, the number of new products or research projects by general
6 classification, and the number of trademarks, patents, and copyrights
7 associated with the qualified aerospace product development activities
8 for which the credit was claimed. The first survey filed under this
9 subsection shall include employment, wage, and benefit information for
10 the twelve-month period immediately before first use of a tax
11 incentive. The annual survey shall also include the following
12 information for employment positions in Washington:

13 (i) The number of total employment positions;

14 (ii) Full-time, part-time, and temporary employment positions as a
15 percent of total employment;

16 (iii) The number of employment positions according to the following
17 wage bands: Less than thirty thousand dollars; thirty thousand dollars
18 or greater, but less than sixty thousand dollars; and sixty thousand
19 dollars or greater. A wage band containing fewer than three
20 individuals may be combined with another wage band; and

21 (iv) The number of employment positions that have employer-provided
22 medical, dental, and retirement benefits, by each of the wage bands.

23 (b) As part of the annual survey, the department may request
24 additional information necessary to measure the results of, or
25 determine eligibility for, the tax incentive.

26 (c) All information collected under this section, except the amount
27 of any tax incentive claimed, is deemed taxpayer information under RCW
28 82.32.330. Information on the amount of any tax incentive claimed is
29 not subject to the confidentiality provisions of RCW 82.32.330 and may
30 be disclosed to the public upon request, except as provided in (d) of
31 this subsection. If the amount of any tax incentive reported on the
32 survey is different than the amount actually claimed on the taxpayer's
33 tax returns or otherwise allowed by the department, the amount actually
34 claimed or allowed may be disclosed.

35 (d) Persons for whom the actual amount of all tax incentives
36 claimed on the taxpayer's returns or otherwise allowed by the
37 department is less than ten thousand dollars during the period covered

1 by the survey may request the department to treat the tax incentive
2 amount as confidential under RCW 82.32.330.

3 (3) If a person fails to submit a complete annual survey under
4 subsection (2) of this section by the due date or any extension under
5 RCW 82.32.590, the department shall declare the amount of taxes against
6 which any tax incentive was claimed, including the amount of taxes
7 reduced under the preferential rate in RCW 82.04.250(3) and
8 82.04.260(12), for that year to be immediately due and payable. The
9 department shall assess interest, but not penalties, on the taxes
10 against which the tax incentive was claimed. Interest shall be
11 assessed at the rate provided for delinquent excise taxes under this
12 chapter, retroactively to the date the tax incentive was claimed, and
13 shall accrue until the taxes against which the tax incentive was
14 claimed are repaid.

15 (4) The department shall use the information from the annual survey
16 required under subsection (2) of this section to prepare summary
17 descriptive statistics by category. No fewer than three taxpayers
18 shall be included in any category. The department shall report these
19 statistics to the legislature each year by September 1st.

20 (5) In conjunction with the reports due under RCW 82.32.545, by
21 November 1, 2010, and November 1, 2023, the fiscal committees of the
22 house of representatives and the senate, in consultation with the
23 department, shall report to the legislature on the effectiveness of the
24 tax incentives authorized in sections 3 and 6 of this act, RCW
25 82.04.250(3), and 82.04.260(12) in regard to keeping Washington
26 competitive. The report shall measure the effect of the tax incentives
27 authorized in sections 3 and 6 of this act, RCW 82.04.250(3), and
28 82.04.260(12) on job retention, net jobs created for Washington
29 residents, company growth, diversification of the state's economy,
30 cluster dynamics, and other factors as the committees select. The
31 reports shall include a discussion of principles to apply in evaluating
32 whether the legislature should reenact the tax incentives authorized in
33 sections 3 and 6 of this act, RCW 82.04.250(3), and 82.04.260(12).

34 (6) A person who is subject to the requirements in RCW 82.32.545 is
35 not required to file a complete annual survey under this section if the
36 person timely files the annual report required by RCW 82.32.545.

37 (7) For the purposes of this section, "tax incentive" means a tax

1 credit under sections 3 and 6 of this act and the preferential tax
2 rates in RCW 82.04.260(12) and 82.04.250(3).

3 **Sec. 9.** RCW 82.32.330 and 2005 c 326 s 1 and 2005 c 274 s 361 are
4 each reenacted and amended to read as follows:

5 (1) For purposes of this section:

6 (a) "Disclose" means to make known to any person in any manner
7 whatever a return or tax information;

8 (b) "Return" means a tax or information return or claim for refund
9 required by, or provided for or permitted under, the laws of this state
10 which is filed with the department of revenue by, on behalf of, or with
11 respect to a person, and any amendment or supplement thereto, including
12 supporting schedules, attachments, or lists that are supplemental to,
13 or part of, the return so filed;

14 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
15 nature, source, or amount of the taxpayer's income, payments, receipts,
16 deductions, exemptions, credits, assets, liabilities, net worth, tax
17 liability deficiencies, overassessments, or tax payments, whether taken
18 from the taxpayer's books and records or any other source, (iii)
19 whether the taxpayer's return was, is being, or will be examined or
20 subject to other investigation or processing, (iv) a part of a written
21 determination that is not designated as a precedent and disclosed
22 pursuant to RCW 82.32.410, or a background file document relating to a
23 written determination, and (v) other data received by, recorded by,
24 prepared by, furnished to, or collected by the department of revenue
25 with respect to the determination of the existence, or possible
26 existence, of liability, or the amount thereof, of a person under the
27 laws of this state for a tax, penalty, interest, fine, forfeiture, or
28 other imposition, or offense: PROVIDED, That data, material, or
29 documents that do not disclose information related to a specific or
30 identifiable taxpayer do not constitute tax information under this
31 section. Except as provided by RCW 82.32.410, nothing in this chapter
32 shall require any person possessing data, material, or documents made
33 confidential and privileged by this section to delete information from
34 such data, material, or documents so as to permit its disclosure;

35 (d) "State agency" means every Washington state office, department,
36 division, bureau, board, commission, or other state agency;

1 (e) "Taxpayer identity" means the taxpayer's name, address,
2 telephone number, registration number, or any combination thereof, or
3 any other information disclosing the identity of the taxpayer; and

4 (f) "Department" means the department of revenue or its officer,
5 agent, employee, or representative.

6 (2) Returns and tax information shall be confidential and
7 privileged, and except as authorized by this section, neither the
8 department of revenue nor any other person may disclose any return or
9 tax information.

10 (3) This section does not prohibit the department of revenue from:

11 (a) Disclosing such return or tax information in a civil or
12 criminal judicial proceeding or an administrative proceeding:

13 (i) In respect of any tax imposed under the laws of this state if
14 the taxpayer or its officer or other person liable under Title 82 RCW
15 is a party in the proceeding; or

16 (ii) In which the taxpayer about whom such return or tax
17 information is sought and another state agency are adverse parties in
18 the proceeding;

19 (b) Disclosing, subject to such requirements and conditions as the
20 director shall prescribe by rules adopted pursuant to chapter 34.05
21 RCW, such return or tax information regarding a taxpayer to such
22 taxpayer or to such person or persons as that taxpayer may designate in
23 a request for, or consent to, such disclosure, or to any other person,
24 at the taxpayer's request, to the extent necessary to comply with a
25 request for information or assistance made by the taxpayer to such
26 other person: PROVIDED, That tax information not received from the
27 taxpayer shall not be so disclosed if the director determines that such
28 disclosure would compromise any investigation or litigation by any
29 federal, state, or local government agency in connection with the civil
30 or criminal liability of the taxpayer or another person, or that such
31 disclosure would identify a confidential informant, or that such
32 disclosure is contrary to any agreement entered into by the department
33 that provides for the reciprocal exchange of information with other
34 government agencies which agreement requires confidentiality with
35 respect to such information unless such information is required to be
36 disclosed to the taxpayer by the order of any court;

37 (c) Disclosing the name of a taxpayer with a deficiency greater
38 than five thousand dollars and against whom a warrant under RCW

1 82.32.210 has been either issued or filed and remains outstanding for
2 a period of at least ten working days. The department shall not be
3 required to disclose any information under this subsection if a
4 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
5 a warrant that has not been filed; and (iii) has entered a deferred
6 payment arrangement with the department of revenue and is making
7 payments upon such deficiency that will fully satisfy the indebtedness
8 within twelve months;

9 (d) Disclosing the name of a taxpayer with a deficiency greater
10 than five thousand dollars and against whom a warrant under RCW
11 82.32.210 has been filed with a court of record and remains
12 outstanding;

13 (e) Publishing statistics so classified as to prevent the
14 identification of particular returns or reports or items thereof;

15 (f) Disclosing such return or tax information, for official
16 purposes only, to the governor or attorney general, or to any state
17 agency, or to any committee or subcommittee of the legislature dealing
18 with matters of taxation, revenue, trade, commerce, the control of
19 industry or the professions;

20 (g) Permitting the department of revenue's records to be audited
21 and examined by the proper state officer, his or her agents and
22 employees;

23 (h) Disclosing any such return or tax information to a peace
24 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for
25 official purposes. The disclosure may be made only in response to a
26 search warrant, subpoena, or other court order, unless the disclosure
27 is for the purpose of criminal tax enforcement. A peace officer or
28 county prosecuting attorney who receives the return or tax information
29 may disclose that return or tax information only for use in the
30 investigation and a related court proceeding, or in the court
31 proceeding for which the return or tax information originally was
32 sought;

33 (i) Disclosing any such return or tax information to the proper
34 officer of the internal revenue service of the United States, the
35 Canadian government or provincial governments of Canada, or to the
36 proper officer of the tax department of any state or city or town or
37 county, for official purposes, but only if the statutes of the United

1 States, Canada or its provincial governments, or of such other state or
2 city or town or county, as the case may be, grants substantially
3 similar privileges to the proper officers of this state;

4 (j) Disclosing any such return or tax information to the Department
5 of Justice, including the Bureau of Alcohol, Tobacco (~~and~~), Firearms
6 (~~of the Department of the Treasury~~) and Explosives within the
7 Department of Justice, the Department of Defense, the Immigration and
8 Customs Enforcement and the Customs and Border Protection agencies of
9 the United States (~~Customs Service~~) Department of Homeland Security,
10 the Coast Guard of the United States, and the United States Department
11 of Transportation, or any authorized representative thereof, for
12 official purposes;

13 (k) Publishing or otherwise disclosing the text of a written
14 determination designated by the director as a precedent pursuant to RCW
15 82.32.410;

16 (l) Disclosing, in a manner that is not associated with other tax
17 information, the taxpayer name, entity type, business address, mailing
18 address, revenue tax registration numbers, North American industry
19 classification system or standard industrial classification code of a
20 taxpayer, and the dates of opening and closing of business. This
21 subsection shall not be construed as giving authority to the department
22 to give, sell, or provide access to any list of taxpayers for any
23 commercial purpose;

24 (m) Disclosing such return or tax information that is also
25 maintained by another Washington state or local governmental agency as
26 a public record available for inspection and copying under the
27 provisions of chapter 42.56 RCW or is a document maintained by a court
28 of record not otherwise prohibited from disclosure;

29 (n) Disclosing such return or tax information to the United States
30 department of agriculture for the limited purpose of investigating food
31 stamp fraud by retailers;

32 (o) Disclosing to a financial institution, escrow company, or title
33 company, in connection with specific real property that is the subject
34 of a real estate transaction, current amounts due the department for a
35 filed tax warrant, judgment, or lien against the real property;

36 (p) Disclosing to a person against whom the department has asserted
37 liability as a successor under RCW 82.32.140 return or tax information

1 pertaining to the specific business of the taxpayer to which the person
2 has succeeded; ((~~or~~))

3 (q) Disclosing such return or tax information in the possession of
4 the department relating to the administration or enforcement of the
5 real estate excise tax imposed under chapter 82.45 RCW, including
6 information regarding transactions exempt or otherwise not subject to
7 tax; or

8 (r) Disclosing the least amount of return or tax information
9 necessary for the reports required in section 8 (4) and (5) of this act
10 when the number of taxpayers included in the reports or any part of the
11 reports cannot be classified to prevent the identification of taxpayers
12 or particular returns, reports, tax information, or items in the
13 possession of the department.

14 (4)(a) The department may disclose return or taxpayer information
15 to a person under investigation or during any court or administrative
16 proceeding against a person under investigation as provided in this
17 subsection (4). The disclosure must be in connection with the
18 department's official duties relating to an audit, collection activity,
19 or a civil or criminal investigation. The disclosure may occur only
20 when the person under investigation and the person in possession of
21 data, materials, or documents are parties to the return or tax
22 information to be disclosed. The department may disclose return or tax
23 information such as invoices, contracts, bills, statements, resale or
24 exemption certificates, or checks. However, the department may not
25 disclose general ledgers, sales or cash receipt journals, check
26 registers, accounts receivable/payable ledgers, general journals,
27 financial statements, expert's workpapers, income tax returns, state
28 tax returns, tax return workpapers, or other similar data, materials,
29 or documents.

30 (b) Before disclosure of any tax return or tax information under
31 this subsection (4), the department shall, through written
32 correspondence, inform the person in possession of the data, materials,
33 or documents to be disclosed. The correspondence shall clearly
34 identify the data, materials, or documents to be disclosed. The
35 department may not disclose any tax return or tax information under
36 this subsection (4) until the time period allowed in (c) of this
37 subsection has expired or until the court has ruled on any challenge
38 brought under (c) of this subsection.

1 (c) The person in possession of the data, materials, or documents
2 to be disclosed by the department has twenty days from the receipt of
3 the written request required under (b) of this subsection to petition
4 the superior court of the county in which the petitioner resides for
5 injunctive relief. The court shall limit or deny the request of the
6 department if the court determines that:

7 (i) The data, materials, or documents sought for disclosure are
8 cumulative or duplicative, or are obtainable from some other source
9 that is more convenient, less burdensome, or less expensive;

10 (ii) The production of the data, materials, or documents sought
11 would be unduly burdensome or expensive, taking into account the needs
12 of the department, the amount in controversy, limitations on the
13 petitioner's resources, and the importance of the issues at stake; or

14 (iii) The data, materials, or documents sought for disclosure
15 contain trade secret information that, if disclosed, could harm the
16 petitioner.

17 (d) The department shall reimburse reasonable expenses for the
18 production of data, materials, or documents incurred by the person in
19 possession of the data, materials, or documents to be disclosed.

20 (e) Requesting information under (b) of this subsection that may
21 indicate that a taxpayer is under investigation does not constitute a
22 disclosure of tax return or tax information under this section.

23 (5) Any person acquiring knowledge of any return or tax information
24 in the course of his or her employment with the department of revenue
25 and any person acquiring knowledge of any return or tax information as
26 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this
27 section, who discloses any such return or tax information to another
28 person not entitled to knowledge of such return or tax information
29 under the provisions of this section, is guilty of a misdemeanor. If
30 the person guilty of such violation is an officer or employee of the
31 state, such person shall forfeit such office or employment and shall be
32 incapable of holding any public office or employment in this state for
33 a period of two years thereafter.

34 **Sec. 10.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to
35 read as follows:

36 (1) If the department finds that the failure of a taxpayer to file
37 an annual survey under RCW 82.04.4452 or section 8 of this act by the

1 due date was the result of circumstances beyond the control of the
2 taxpayer, the department shall extend the time for filing the survey.
3 Such extension shall be for a period of thirty days from the date the
4 department issues its written notification to the taxpayer that it
5 qualifies for an extension under this section. The department may
6 grant additional extensions as it deems proper.

7 (2) In making a determination whether the failure of a taxpayer to
8 file an annual survey by the due date was the result of circumstances
9 beyond the control of the taxpayer, the department shall be guided by
10 rules adopted by the department for the waiver or cancellation of
11 penalties when the underpayment or untimely payment of any tax was due
12 to circumstances beyond the control of the taxpayer.

13 **Sec. 11.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to
14 read as follows:

15 (1) Persons required to file surveys under RCW 82.04.4452 or
16 section 8 of this act must electronically file with the department all
17 surveys, returns, and any other forms or information the department
18 requires in an electronic format as provided or approved by the
19 department(~~(, unless the department grants relief under subsection (2)~~
20 ~~of this section)~~). As used in this section, "returns" has the same
21 meaning as "return" in RCW 82.32.050.

22 (~~(2) (Upon request, the department may relieve a person of the~~
23 ~~obligations in subsection (1) of this section if the person's taxes~~
24 ~~have been reduced a cumulative total of less than one thousand dollars~~
25 ~~from all of the credits, exemptions, or preferential business and~~
26 ~~occupation tax rates, for which a person is required to file an annual~~
27 ~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~
28 ~~82.32.560, 82.60.070, or 82.63.020.~~

29 ~~(3) Persons who no longer qualify for relief under subsection (2)~~
30 ~~of this section will be notified in writing by the department and must~~
31 ~~comply with subsection (1) of this section by the date provided in the~~
32 ~~notice.~~

33 ~~(4))~~ Any survey, return, or any other form or information required
34 to be filed in an electronic format under subsection (1) of this
35 section is not filed until received by the department in an electronic
36 format.

1 (3) The department may waive the electronic filing requirement in
2 subsection (1) of this section for good cause shown.

3 **Sec. 12.** RCW 82.04.4463 and 2005 c 514 s 501 are each amended to
4 read as follows:

5 (1) In computing the tax imposed under this chapter, a credit is
6 allowed for property taxes and leasehold excise taxes paid during the
7 calendar year.

8 (2) The credit is equal to:

9 (a)(i)(A) Property taxes paid on new buildings, and land upon which
10 this property is located, built after December 1, 2003, and used
11 exclusively in manufacturing commercial airplanes or components of such
12 airplanes; and

13 (B) Leasehold excise taxes paid with respect to a building built
14 after January 1, 2006, the land upon which the building is located, or
15 both, if the building is used exclusively in manufacturing commercial
16 airplanes or components of such airplanes; or

17 (ii) Property taxes attributable to an increase in assessed value
18 due to the renovation or expansion, after December 1, 2003, of a
19 building used exclusively in manufacturing commercial airplanes or
20 components of such airplanes; and

21 (b) An amount equal to property taxes paid on machinery and
22 equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired
23 after December 1, 2003, multiplied by a fraction. The numerator of the
24 fraction is the total taxable amount subject to the tax imposed under
25 RCW 82.04.260(~~((+13))~~) (11) and the denominator of the fraction is the
26 total taxable amount subject to the tax imposed under all manufacturing
27 classifications in chapter 82.04 RCW, required to be reported on the
28 person's returns for the calendar year before the calendar year in
29 which the credit under this section is earned. No credit is available
30 under this subsection (2)(b) if either the numerator or the denominator
31 of the fraction is zero. If the fraction is greater than or equal to
32 nine-tenths, then the fraction is rounded to one. For purposes of this
33 subsection, "returns" means the combined excise tax returns for the
34 calendar year.

35 (3) For the purposes of this section, "commercial passenger
36 airplane" and "component" have the meanings given in RCW 82.32.550.

1 (4) A person taking the credit under this section is subject to all
2 the requirements of chapter 82.32 RCW. In addition, the person must
3 report as required under RCW 82.32.545. A credit earned during one
4 calendar year may be carried over to be credited against taxes incurred
5 in a subsequent calendar year, but may not be carried over a second
6 year. No refunds may be granted for credits under this section.

7 (5) In addition to all other requirements under this title, a
8 person taking the credit under this section must report as required
9 under RCW 82.32.545.

10 (6) This section expires July 1, 2024.

11 NEW SECTION. **Sec. 13.** Section 12 of this act applies with respect
12 to leasehold excise taxes paid on or after January 1, 2007.

13 NEW SECTION. **Sec. 14.** Sections 1 through 11 of this act take
14 effect July 1, 2006.

15 NEW SECTION. **Sec. 15.** Sections 12 and 13 of this act take effect
16 January 1, 2007.

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