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HOUSE BILL 2984

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Maxwell, Clibborn, Eddy, Goodman, and Hunter

Read first time 01/19/10. Referred to Committee on Finance.

1            AN ACT Relating to a sales and use tax deferral for performing arts  
2 centers; and adding a new section to chapter 82.32 RCW.

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

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.32 RCW  
5 to read as follows:

6            (1) The governing board of a nonprofit organization, corporation,  
7 or association may apply for deferral of taxes on taxable activity  
8 related to an eligible facility. Application must be made to the  
9 department in a form and manner prescribed by the department. The  
10 application must contain information regarding the location of the  
11 facility, estimated or actual costs of the facility, time schedules for  
12 completion and operation of the facility, and other information  
13 required by the department. The department must rule on the  
14 application within sixty days. All applications for the tax deferral  
15 under this section must be submitted prior to the initiation of  
16 construction and no later than December 31, 2012.

17            (2) The department must issue a sales and use tax deferral  
18 certificate for state and local sales and use taxes due under chapters

1 82.08, 82.12, and 82.14 RCW for sales or charges made for taxable  
2 activity related to an eligible facility.

3 (3) The nonprofit organization, corporation, or association must  
4 begin paying the deferred taxes in the fifth year after the date in  
5 which the eligible facility is issued an occupancy permit by the local  
6 permit issuing authority. The first payment is due by December 31st of  
7 the fifth calendar year after such certified date, with subsequent  
8 annual payments due by December 31st of the following nine years. Each  
9 payment must equal ten percent of the deferred tax.

10 (4) The department may authorize an accelerated repayment schedule  
11 upon request of the nonprofit organization, corporation, or  
12 association.

13 (5) Except as provided in subsection (6) of this section, interest  
14 may not be charged on any taxes deferred under this section for the  
15 period of deferral. The debt for deferred taxes is not extinguished by  
16 insolvency or other failure of the nonprofit organization, corporation,  
17 or association.

18 (6) If the facility is not operationally complete within five  
19 calendar years from issuance of the tax deferral certificate or if at  
20 any time the department finds that the facility is not eligible for tax  
21 deferral under this section, the amount of deferred taxes outstanding  
22 for the facility is immediately due and payable. If deferred taxes  
23 must be repaid under this subsection, the department must assess  
24 interest, but not penalties, on amounts due under this subsection.  
25 Interest is assessed at the rate provided for delinquent taxes under  
26 this chapter, retroactively to the date of deferral, and accrues until  
27 the deferred taxes due are repaid.

28 (7) Applications and any other information received by the  
29 department of revenue under this section are not confidential under RCW  
30 82.32.330. This chapter applies to the administration of this section.

31 (8) This section applies to taxable activity for an eligible  
32 facility that occurs on or after July 1, 2011.

33 (9) The following definitions apply to this section:

34 (a) "Eligible facility" means a facility that is: (i) Owned and  
35 operated by a nonprofit organization, corporation, or association; (ii)  
36 used primarily as a performing arts center; and (iii) located in a city  
37 with an estimated population between one hundred fifteen thousand and

1 one hundred fifty thousand at the time construction of the facility is  
2 initiated.

3 (b) "Facility" means a new structure and fixtures that are  
4 permanently affixed to and become a physical part of the structure.

5 (c) "Nonprofit organization, corporation, or association" means an  
6 organization, corporation, or association exempt from tax under section  
7 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986,  
8 as amended as of the effective date of this act.

9 (d) "Performing arts center" means a facility that is used for  
10 music, dance, drama, or similar presentations and has a seating  
11 capacity of one thousand seven hundred or more.

12 (e) "Site preparation" includes soil testing, site clearing and  
13 grading, demolition, or any other related activities that are initiated  
14 before construction. Site preparation does not include landscaping  
15 services or landscaping materials.

16 (f) "Taxable activity" means construction of new structures, the  
17 acquisition and installation of fixtures, and site preparation.

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