

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2122

61st Legislature
2009 Regular Session

Passed by the House March 10, 2009
Yeas 91 Nays 5

Speaker of the House of Representatives

Passed by the Senate April 26, 2009
Yeas 46 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2122** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2122

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Representatives Kessler, Blake, Ericks, Takko, Wallace, Morris, Liias, Hunt, Kelley, Quall, Sullivan, and Van De Wege

Read first time 02/10/09. Referred to Committee on Finance.

1 AN ACT Relating to reducing the business and occupation tax burden
2 on the newspaper industry; amending RCW 82.04.280, 82.04.280,
3 35.102.150, and 82.08.806; amending 2006 c 300 s 12 (uncodified);
4 reenacting and amending RCW 82.04.260, 82.32.590, and 82.32.600; adding
5 a new section to chapter 82.32 RCW; providing an effective date;
6 providing a contingent effective date; providing a contingent
7 expiration date; and declaring an emergency.

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

9 **Sec. 1.** RCW 82.04.260 and 2008 c 296 s 1, 2008 c 217 s 100, and
10 2008 c 81 s 4 are each reenacted and amended to read as follows:

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

13 (a) Wheat into flour, barley into pearl barley, soybeans into
14 soybean oil, canola into canola oil, canola meal, or canola byproducts,
15 or sunflower seeds into sunflower oil; as to such persons the amount of
16 tax with respect to such business shall be equal to the value of the
17 flour, pearl barley, oil, canola meal, or canola byproduct
18 manufactured, multiplied by the rate of 0.138 percent;

1 (b) Beginning July 1, 2012, seafood products that remain in a raw,
2 raw frozen, or raw salted state at the completion of the manufacturing
3 by that person; or selling manufactured seafood products that remain in
4 a raw, raw frozen, or raw salted state at the completion of the
5 manufacturing, to purchasers who transport in the ordinary course of
6 business the goods out of this state; as to such persons the amount of
7 tax with respect to such business shall be equal to the value of the
8 products manufactured or the gross proceeds derived from such sales,
9 multiplied by the rate of 0.138 percent. Sellers must keep and
10 preserve records for the period required by RCW 82.32.070 establishing
11 that the goods were transported by the purchaser in the ordinary course
12 of business out of this state;

13 (c) Beginning July 1, 2012, dairy products that as of September 20,
14 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
15 including byproducts from the manufacturing of the dairy products such
16 as whey and casein; or selling the same to purchasers who transport in
17 the ordinary course of business the goods out of state; as to such
18 persons the tax imposed shall be equal to the value of the products
19 manufactured or the gross proceeds derived from such sales multiplied
20 by the rate of 0.138 percent. Sellers must keep and preserve records
21 for the period required by RCW 82.32.070 establishing that the goods
22 were transported by the purchaser in the ordinary course of business
23 out of this state;

24 (d) Beginning July 1, 2012, fruits or vegetables by canning,
25 preserving, freezing, processing, or dehydrating fresh fruits or
26 vegetables, or selling at wholesale fruits or vegetables manufactured
27 by the seller by canning, preserving, freezing, processing, or
28 dehydrating fresh fruits or vegetables and sold to purchasers who
29 transport in the ordinary course of business the goods out of this
30 state; as to such persons the amount of tax with respect to such
31 business shall be equal to the value of the products manufactured or
32 the gross proceeds derived from such sales multiplied by the rate of
33 0.138 percent. Sellers must keep and preserve records for the period
34 required by RCW 82.32.070 establishing that the goods were transported
35 by the purchaser in the ordinary course of business out of this state;

36 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
37 feedstock, as those terms are defined in RCW 82.29A.135; as to such

1 persons the amount of tax with respect to the business shall be equal
2 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
3 manufactured, multiplied by the rate of 0.138 percent; and

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

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

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

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

22 (5) Upon every person engaging within this state in the business of
23 acting as a travel agent or tour operator; as to such persons the
24 amount of the tax with respect to such activities shall be equal to the
25 gross income derived from such activities multiplied by the rate of
26 0.275 percent.

27 (6) Upon every person engaging within this state in business as an
28 international steamship agent, international customs house broker,
29 international freight forwarder, vessel and/or cargo charter broker in
30 foreign commerce, and/or international air cargo agent; as to such
31 persons the amount of the tax with respect to only international
32 activities shall be equal to the gross income derived from such
33 activities multiplied by the rate of 0.275 percent.

34 (7) Upon every person engaging within this state in the business of
35 stevedoring and associated activities pertinent to the movement of
36 goods and commodities in waterborne interstate or foreign commerce; as
37 to such persons the amount of tax with respect to such business shall
38 be equal to the gross proceeds derived from such activities multiplied

1 by the rate of 0.275 percent. Persons subject to taxation under this
2 subsection shall be exempt from payment of taxes imposed by chapter
3 82.16 RCW for that portion of their business subject to taxation under
4 this subsection. Stevedoring and associated activities pertinent to
5 the conduct of goods and commodities in waterborne interstate or
6 foreign commerce are defined as all activities of a labor, service or
7 transportation nature whereby cargo may be loaded or unloaded to or
8 from vessels or barges, passing over, onto or under a wharf, pier, or
9 similar structure; cargo may be moved to a warehouse or similar holding
10 or storage yard or area to await further movement in import or export
11 or may move to a consolidation freight station and be stuffed,
12 unstuffed, containerized, separated or otherwise segregated or
13 aggregated for delivery or loaded on any mode of transportation for
14 delivery to its consignee. Specific activities included in this
15 definition are: Wharfage, handling, loading, unloading, moving of
16 cargo to a convenient place of delivery to the consignee or a
17 convenient place for further movement to export mode; documentation
18 services in connection with the receipt, delivery, checking, care,
19 custody and control of cargo required in the transfer of cargo;
20 imported automobile handling prior to delivery to consignee; terminal
21 stevedoring and incidental vessel services, including but not limited
22 to plugging and unplugging refrigerator service to containers,
23 trailers, and other refrigerated cargo receptacles, and securing ship
24 hatch covers.

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

30 If the gross income of the taxpayer is attributable to activities
31 both within and without this state, the gross income attributable to
32 this state shall be determined in accordance with the methods of
33 apportionment required under RCW 82.04.460.

34 (9) Upon every person engaging within this state as an insurance
35 producer or title insurance agent licensed under chapter 48.17 RCW; as
36 to such persons, the amount of the tax with respect to such licensed
37 activities shall be equal to the gross income of such business
38 multiplied by the rate of 0.484 percent.

1 (10) Upon every person engaging within this state in business as a
2 hospital, as defined in chapter 70.41 RCW, that is operated as a
3 nonprofit corporation or by the state or any of its political
4 subdivisions, as to such persons, the amount of tax with respect to
5 such activities shall be equal to the gross income of the business
6 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
7 percent thereafter. The moneys collected under this subsection shall
8 be deposited in the health services account created under RCW
9 43.72.900.

10 (11)(a) Beginning October 1, 2005, upon every person engaging
11 within this state in the business of manufacturing commercial
12 airplanes, or components of such airplanes, or making sales, at retail
13 or wholesale, of commercial airplanes or components of such airplanes,
14 manufactured by the seller, as to such persons the amount of tax with
15 respect to such business shall, in the case of manufacturers, be equal
16 to the value of the product manufactured and the gross proceeds of
17 sales of the product manufactured, or in the case of processors for
18 hire, be equal to the gross income of the business, multiplied by the
19 rate of:

20 (i) 0.4235 percent from October 1, 2005, through the later of June
21 30, 2007; and

22 (ii) 0.2904 percent beginning July 1, 2007.

23 (b) Beginning July 1, 2008, upon every person who is not eligible
24 to report under the provisions of (a) of this subsection (11) and is
25 engaging within this state in the business of manufacturing tooling
26 specifically designed for use in manufacturing commercial airplanes or
27 components of such airplanes, or making sales, at retail or wholesale,
28 of such tooling manufactured by the seller, as to such persons the
29 amount of tax with respect to such business shall, in the case of
30 manufacturers, be equal to the value of the product manufactured and
31 the gross proceeds of sales of the product manufactured, or in the case
32 of processors for hire, be equal to the gross income of the business,
33 multiplied by the rate of 0.2904 percent.

34 (c) For the purposes of this subsection (11), "commercial airplane"
35 and "component" have the same meanings as provided in RCW 82.32.550.

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

1 (e) This subsection (11) does not apply on and after July 1, 2024.

2 (12)(a) Until July 1, 2024, upon every person engaging within this
3 state in the business of extracting timber or extracting for hire
4 timber; as to such persons the amount of tax with respect to the
5 business shall, in the case of extractors, be equal to the value of
6 products, including byproducts, extracted, or in the case of extractors
7 for hire, be equal to the gross income of the business, multiplied by
8 the rate of 0.4235 percent from July 1, 2006, through June 30, 2007,
9 and 0.2904 percent from July 1, 2007, through June 30, 2024.

10 (b) Until July 1, 2024, upon every person engaging within this
11 state in the business of manufacturing or processing for hire: (i)
12 Timber into timber products or wood products; or (ii) timber products
13 into other timber products or wood products; as to such persons the
14 amount of the tax with respect to the business shall, in the case of
15 manufacturers, be equal to the value of products, including byproducts,
16 manufactured, or in the case of processors for hire, be equal to the
17 gross income of the business, multiplied by the rate of 0.4235 percent
18 from July 1, 2006, through June 30, 2007, and 0.2904 percent from July
19 1, 2007, through June 30, 2024.

20 (c) Until July 1, 2024, upon every person engaging within this
21 state in the business of selling at wholesale: (i) Timber extracted by
22 that person; (ii) timber products manufactured by that person from
23 timber or other timber products; or (iii) wood products manufactured by
24 that person from timber or timber products; as to such persons the
25 amount of the tax with respect to the business shall be equal to the
26 gross proceeds of sales of the timber, timber products, or wood
27 products multiplied by the rate of 0.4235 percent from July 1, 2006,
28 through June 30, 2007, and 0.2904 percent from July 1, 2007, through
29 June 30, 2024.

30 (d) Until July 1, 2024, upon every person engaging within this
31 state in the business of selling standing timber; as to such persons
32 the amount of the tax with respect to the business shall be equal to
33 the gross income of the business multiplied by the rate of 0.2904
34 percent. For purposes of this subsection (12)(d), "selling standing
35 timber" means the sale of timber apart from the land, where the buyer
36 is required to sever the timber within thirty months from the date of
37 the original contract, regardless of the method of payment for the

1 timber and whether title to the timber transfers before, upon, or after
2 severance.

3 (e) For purposes of this subsection, the following definitions
4 apply:

5 (i) "Biocomposite surface products" means surface material products
6 containing, by weight or volume, more than fifty percent recycled paper
7 and that also use nonpetroleum-based phenolic resin as a bonding agent.

8 (ii) "Paper and paper products" means products made of interwoven
9 cellulosic fibers held together largely by hydrogen bonding. "Paper
10 and paper products" includes newsprint; office, printing, fine, and
11 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
12 kraft bag, construction, and other kraft industrial papers; paperboard,
13 liquid packaging containers, containerboard, corrugated, and solid-
14 fiber containers including linerboard and corrugated medium; and
15 related types of cellulosic products containing primarily, by weight or
16 volume, cellulosic materials. "Paper and paper products" does not
17 include books, newspapers, magazines, periodicals, and other printed
18 publications, advertising materials, calendars, and similar types of
19 printed materials.

20 (iii) "Recycled paper" means paper and paper products having fifty
21 percent or more of their fiber content that comes from postconsumer
22 waste. For purposes of this subsection (12)(e)(iii), "postconsumer
23 waste" means a finished material that would normally be disposed of as
24 solid waste, having completed its life cycle as a consumer item.

25 (iv) "Timber" means forest trees, standing or down, on privately or
26 publicly owned land. "Timber" does not include Christmas trees that
27 are cultivated by agricultural methods or short-rotation hardwoods as
28 defined in RCW 84.33.035.

29 (v) "Timber products" means:

30 (A) Logs, wood chips, sawdust, wood waste, and similar products
31 obtained wholly from the processing of timber, short-rotation hardwoods
32 as defined in RCW 84.33.035, or both;

33 (B) Pulp, including market pulp and pulp derived from recovered
34 paper or paper products; and

35 (C) Recycled paper, but only when used in the manufacture of
36 biocomposite surface products.

37 (vi) "Wood products" means paper and paper products; dimensional

1 lumber; engineered wood products such as particleboard, oriented strand
2 board, medium density fiberboard, and plywood; wood doors; wood
3 windows; and biocomposite surface products.

4 (13) Upon every person engaging within this state in inspecting,
5 testing, labeling, and storing canned salmon owned by another person,
6 as to such persons, the amount of tax with respect to such activities
7 shall be equal to the gross income derived from such activities
8 multiplied by the rate of 0.484 percent.

9 (14) Upon every person engaging within this state in the business
10 of printing a newspaper, publishing a newspaper, or both, the amount of
11 tax on such business is equal to the gross income of the business
12 multiplied by the rate of 0.2904 percent.

13 **Sec. 2.** RCW 82.04.280 and 2006 c 300 s 6 are each amended to read
14 as follows:

15 Upon every person engaging within this state in the business of:
16 (1) Printing materials other than newspapers, and of publishing
17 (~~newspapers~~) periodicals(~~(r)~~) or magazines; (2) building, repairing
18 or improving any street, place, road, highway, easement, right-of-way,
19 mass public transportation terminal or parking facility, bridge,
20 tunnel, or trestle which is owned by a municipal corporation or
21 political subdivision of the state or by the United States and which is
22 used or to be used, primarily for foot or vehicular traffic including
23 mass transportation vehicles of any kind and including any
24 readjustment, reconstruction or relocation of the facilities of any
25 public, private or cooperatively owned utility or railroad in the
26 course of such building, repairing or improving, the cost of which
27 readjustment, reconstruction, or relocation, is the responsibility of
28 the public authority whose street, place, road, highway, easement,
29 right-of-way, mass public transportation terminal or parking facility,
30 bridge, tunnel, or trestle is being built, repaired or improved; (3)
31 extracting for hire or processing for hire, except persons taxable as
32 extractors for hire or processors for hire under another section of
33 this chapter; (4) operating a cold storage warehouse or storage
34 warehouse, but not including the rental of cold storage lockers; (5)
35 representing and performing services for fire or casualty insurance
36 companies as an independent resident managing general agent licensed
37 under the provisions of RCW 48.05.310; (6) radio and television

1 broadcasting, excluding network, national and regional advertising
2 computed as a standard deduction based on the national average thereof
3 as annually reported by the Federal Communications Commission, or in
4 lieu thereof by itemization by the individual broadcasting station, and
5 excluding that portion of revenue represented by the out-of-state
6 audience computed as a ratio to the station's total audience as
7 measured by the 100 micro-volt signal strength and delivery by wire, if
8 any; (7) engaging in activities which bring a person within the
9 definition of consumer contained in RCW 82.04.190(6); as to such
10 persons, the amount of tax on such business (~~shall be~~) is equal to
11 the gross income of the business multiplied by the rate of 0.484
12 percent.

13 As used in this section, "cold storage warehouse" means a storage
14 warehouse used to store fresh and/or frozen perishable fruits or
15 vegetables, meat, seafood, dairy products, or fowl, or any combination
16 thereof, at a desired temperature to maintain the quality of the
17 product for orderly marketing.

18 As used in this section, "storage warehouse" means a building or
19 structure, or any part thereof, in which goods, wares, or merchandise
20 are received for storage for compensation, except field warehouses,
21 fruit warehouses, fruit packing plants, warehouses licensed under
22 chapter 22.09 RCW, public garages storing automobiles, railroad freight
23 sheds, docks and wharves, and "self-storage" or "mini storage"
24 facilities whereby customers have direct access to individual storage
25 areas by separate entrance. "Storage warehouse" does not include a
26 building or structure, or that part of such building or structure, in
27 which an activity taxable under RCW 82.04.272 is conducted.

28 As used in this section, "periodical or magazine" means a printed
29 publication, other than a newspaper, issued regularly at stated
30 intervals at least once every three months, including any supplement or
31 special edition of the publication.

32 **Sec. 3.** RCW 82.04.280 and 2006 c 300 s 7 are each amended to read
33 as follows:

34 Upon every person engaging within this state in the business of:
35 (1) Printing materials other than newspapers, and of publishing
36 (~~newspapers~~) periodicals(~~(7)~~) or magazines; (2) building, repairing
37 or improving any street, place, road, highway, easement, right-of-way,

1 mass public transportation terminal or parking facility, bridge,
2 tunnel, or trestle which is owned by a municipal corporation or
3 political subdivision of the state or by the United States and which is
4 used or to be used, primarily for foot or vehicular traffic including
5 mass transportation vehicles of any kind and including any
6 readjustment, reconstruction or relocation of the facilities of any
7 public, private or cooperatively owned utility or railroad in the
8 course of such building, repairing or improving, the cost of which
9 readjustment, reconstruction, or relocation, is the responsibility of
10 the public authority whose street, place, road, highway, easement,
11 right-of-way, mass public transportation terminal or parking facility,
12 bridge, tunnel, or trestle is being built, repaired or improved; (3)
13 extracting for hire or processing for hire, except persons taxable as
14 extractors for hire or processors for hire under another section of
15 this chapter; (4) operating a cold storage warehouse or storage
16 warehouse, but not including the rental of cold storage lockers; (5)
17 representing and performing services for fire or casualty insurance
18 companies as an independent resident managing general agent licensed
19 under the provisions of RCW 48.05.310; (6) radio and television
20 broadcasting, excluding network, national and regional advertising
21 computed as a standard deduction based on the national average thereof
22 as annually reported by the Federal Communications Commission, or in
23 lieu thereof by itemization by the individual broadcasting station, and
24 excluding that portion of revenue represented by the out-of-state
25 audience computed as a ratio to the station's total audience as
26 measured by the 100 micro-volt signal strength and delivery by wire, if
27 any; (7) engaging in activities which bring a person within the
28 definition of consumer contained in RCW 82.04.190(6); as to such
29 persons, the amount of tax on such business (~~shall be~~) is equal to
30 the gross income of the business multiplied by the rate of 0.484
31 percent.

32 As used in this section, "cold storage warehouse" means a storage
33 warehouse used to store fresh and/or frozen perishable fruits or
34 vegetables, meat, seafood, dairy products, or fowl, or any combination
35 thereof, at a desired temperature to maintain the quality of the
36 product for orderly marketing.

37 As used in this section, "storage warehouse" means a building or
38 structure, or any part thereof, in which goods, wares, or merchandise

1 are received for storage for compensation, except field warehouses,
2 fruit warehouses, fruit packing plants, warehouses licensed under
3 chapter 22.09 RCW, public garages storing automobiles, railroad freight
4 sheds, docks and wharves, and "self-storage" or "mini storage"
5 facilities whereby customers have direct access to individual storage
6 areas by separate entrance. "Storage warehouse" does not include a
7 building or structure, or that part of such building or structure, in
8 which an activity taxable under RCW 82.04.272 is conducted.

9 As used in this section, "periodical or magazine" means a printed
10 publication, other than a newspaper, issued regularly at stated
11 intervals at least once every three months, including any supplement or
12 special edition of the publication.

13 **Sec. 4.** RCW 35.102.150 and 2006 c 272 s 1 are each amended to read
14 as follows:

15 Notwithstanding RCW 35.102.130, a city that imposes a business and
16 occupation tax (~~(shall)~~) must allocate a person's gross income from the
17 activities of printing, and of publishing newspapers, periodicals, or
18 magazines, to the principal place in this state from which the
19 taxpayer's business is directed or managed. As used in this section,
20 the activities of printing, and of publishing newspapers, periodicals,
21 or magazines (~~(, have the same meanings as attributed to those terms in~~
22 ~~RCW 82.04.280(1) by the department of revenue)~~) are those activities to
23 which the tax rates in RCW 82.04.260(14) and 82.04.280(1) apply.

24 **Sec. 5.** RCW 82.08.806 and 2004 c 8 s 2 are each amended to read as
25 follows:

26 (1) The tax levied by RCW 82.08.020 (~~(shall)~~) does not apply to
27 sales, to a printer or publisher, of computer equipment, including
28 repair parts and replacement parts for such equipment, when the
29 computer equipment is used primarily in the printing or publishing of
30 any printed material, or to sales of or charges made for labor and
31 services rendered in respect to installing, repairing, cleaning,
32 altering, or improving the computer equipment. This exemption applies
33 only to computer equipment not otherwise exempt under RCW 82.08.02565.

34 (2) A person taking the exemption under this section must keep
35 records necessary for the department to verify eligibility under this
36 section. This exemption is available only when the purchaser provides

1 the seller with an exemption certificate in a form and manner
2 prescribed by the department. The seller shall retain a copy of the
3 certificate for the seller's files.

4 (3) The definitions in this subsection (3) apply throughout this
5 section, unless the context clearly requires otherwise.

6 (a) "Computer" has the same meaning as in RCW 82.04.215.

7 (b) "Computer equipment" means a computer and the associated
8 physical components that constitute a computer system, including
9 monitors, keyboards, printers, modems, scanners, pointing devices, and
10 other computer peripheral equipment, cables, servers, and routers.
11 "Computer equipment" also includes digital cameras and computer
12 software.

13 (c) "Computer software" has the same meaning as in RCW 82.04.215.

14 (d) "Primarily" means greater than fifty percent as measured by
15 time.

16 (e) "Printer or publisher" means a person, as defined in RCW
17 82.04.030, who is subject to tax under RCW 82.04.260(14) or
18 82.04.280(1).

19 (4) "Computer equipment" does not include computer equipment that
20 is used primarily for administrative purposes including but not limited
21 to payroll processing, accounting, customer service, telemarketing, and
22 collection. If computer equipment is used simultaneously for
23 administrative and nonadministrative purposes, the administrative use
24 shall be disregarded during the period of simultaneous use for purposes
25 of determining whether the computer equipment is used primarily for
26 administrative purposes.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.32 RCW
28 to read as follows:

29 (1)(a) Every person claiming the preferential rate provided in RCW
30 82.04.260(14) must file a complete annual report with the department.
31 The report is due by March 31st of the year following any calendar year
32 in which a person is eligible to claim the preferential rate provided
33 in RCW 82.04.260(14). The department may extend the due date for
34 timely filing of annual reports under this section as provided in RCW
35 82.32.590.

36 (b) The report must include information detailing employment,
37 wages, and employer-provided health and retirement benefits for

1 employment positions in Washington for the year that the preferential
2 rate was claimed. The report must not include names of employees. The
3 report must also detail employment by the total number of full-time,
4 part-time, and temporary positions for the year that the tax preference
5 was claimed.

6 (c) If a person filing a report under this section did not file a
7 report with the department in the previous calendar year, the report
8 filed under this section must also include employment, wage, and
9 benefit information for the calendar year immediately preceding the
10 calendar year for which the preferential rate provided in RCW
11 82.04.260(14) was claimed.

12 (2) As part of the annual report, the department may request
13 additional information necessary to measure the results of, or
14 determine eligibility for, the preferential rate provided in RCW
15 82.04.260(14).

16 (3) Other than information requested under subsection (2) of this
17 section, the information contained in an annual report filed under this
18 section is not subject to the confidentiality provisions of RCW
19 82.32.330 and may be disclosed to the public upon request.

20 (4) Except as otherwise provided by law, if a person claims the
21 preferential rate provided in RCW 82.04.260(14) but fails to submit a
22 report by the due date or any extension under RCW 82.32.590, the
23 department must declare the amount of the tax preference claimed for
24 the previous calendar year to be immediately due and payable. The
25 department must assess interest, but not penalties, on the amounts due
26 under this subsection. The interest must be assessed at the rate
27 provided for delinquent taxes under this chapter, retroactively to the
28 date the tax preference was claimed, and accrues until the taxes for
29 which the tax preference was claimed are repaid. Amounts due under
30 this subsection are not subject to the confidentiality provisions of
31 RCW 82.32.330 and may be disclosed to the public upon request.

32 (5) By November 1, 2014, and November 1, 2016, the fiscal
33 committees of the house of representatives and the senate, in
34 consultation with the department, must report to the legislature on the
35 effectiveness of the preferential rate provided in RCW 82.04.260(14).
36 The report must measure the effect of the preferential rate provided in
37 RCW 82.04.260(14) on job retention, net jobs created for Washington
38 residents, industry growth, and other factors as the committees select.

1 The report must include a discussion of principles to apply in
2 evaluating whether the legislature should continue the preferential
3 rate provided in RCW 82.04.260(14).

4 **Sec. 7.** RCW 82.32.590 and 2008 c 81 s 13 and 2008 c 15 s 7 are
5 each reenacted and amended to read as follows:

6 (1) If the department finds that the failure of a taxpayer to file
7 an annual survey or annual report under RCW 82.04.4452, 82.32.5351,
8 82.32.650, 82.32.630, 82.32.610, 82.82.020, section 6 of this act, or
9 82.74.040 by the due date was the result of circumstances beyond the
10 control of the taxpayer, the department shall extend the time for
11 filing the survey or report. Such extension shall be for a period of
12 thirty days from the date the department issues its written
13 notification to the taxpayer that it qualifies for an extension under
14 this section. The department may grant additional extensions as it
15 deems proper.

16 (2) In making a determination whether the failure of a taxpayer to
17 file an annual survey or annual report by the due date was the result
18 of circumstances beyond the control of the taxpayer, the department
19 shall be guided by rules adopted by the department for the waiver or
20 cancellation of penalties when the underpayment or untimely payment of
21 any tax was due to circumstances beyond the control of the taxpayer.

22 **Sec. 8.** RCW 82.32.600 and 2008 c 81 s 14 and 2008 c 15 s 8 are
23 each reenacted and amended to read as follows:

24 (1) Persons required to file annual surveys or annual reports under
25 RCW 82.04.4452, 82.32.5351, 82.32.545, 82.32.610, 82.32.630, 82.82.020,
26 section 6 of this act, or 82.74.040 must electronically file with the
27 department all surveys, reports, returns, and any other forms or
28 information the department requires in an electronic format as provided
29 or approved by the department. As used in this section, "returns" has
30 the same meaning as "return" in RCW 82.32.050.

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

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

1 **Sec. 9.** 2006 c 300 s 12 (uncodified) is amended to read as
2 follows:

3 (1)(a) (~~This act and~~) Section 3, chapter, Laws of 2009
4 (section 3 of this act), section 7, chapter 300, Laws of 2006, and
5 section 4, chapter 149, Laws of 2003 are contingent upon the siting and
6 commercial operation of a significant semiconductor microchip
7 fabrication facility in the state of Washington.

8 (b) For the purposes of this section:

9 (i) "Commercial operation" means the same as "commencement of
10 commercial production" as used in RCW 82.08.965.

11 (ii) "Semiconductor microchip fabrication" means "manufacturing
12 semiconductor microchips" as defined in RCW 82.04.426.

13 (iii) "Significant" means the combined investment of new buildings
14 and new machinery and equipment in the buildings, at the commencement
15 of commercial production, will be at least one billion dollars.

16 (2) (~~This act~~) Chapter 149, Laws of 2003 takes effect the first
17 day of the month in which a contract for the construction of a
18 significant semiconductor fabrication facility is signed, as determined
19 by the director of the department of revenue.

20 (3)(a) The department of revenue (~~shall~~) must provide notice of
21 the effective date of this act to affected taxpayers, the legislature,
22 and others as deemed appropriate by the department.

23 (b) If, after making a determination that a contract has been
24 signed and (~~this act~~) chapter 149, Laws of 2003 is effective, the
25 department discovers that commencement of commercial production did not
26 take place within three years of the date the contract was signed, the
27 department (~~shall~~) must make a determination that (~~this act~~)
28 chapter 149, Laws of 2003 is no longer effective, and all taxes that
29 would have been otherwise due (~~shall be~~) are deemed deferred taxes
30 and are immediately assessed and payable from any person reporting tax
31 under RCW 82.04.240(2) or claiming an exemption or credit under section
32 2 or 5 through 10 (~~of this act~~), chapter 149, Laws of 2003. The
33 department is not authorized to make a second determination regarding
34 the effective date of (~~this act~~) chapter 149, Laws of 2003.

35 NEW SECTION. **Sec. 10.** (1) Except as provided in subsection (2) of
36 this section, this act is necessary for the immediate preservation of

1 the public peace, health, or safety, or support of the state government
2 and its existing public institutions, and takes effect July 1, 2009.

3 (2) Section 3 of this act takes effect if the contingency in
4 section 9 of this act occurs.

5 NEW SECTION. **Sec. 11.** Section 2 of this act expires on the date
6 that section 3 of this act takes effect.

--- END ---