
ENGROSSED SUBSTITUTE SENATE BILL 5557

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senator Pridemore)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to adopting the recommendations of the citizen
2 commission for performance measurement of tax preferences concerning
3 calculation of the business and occupation tax deduction for radio and
4 television broadcasting, reporting data on the community benefits of
5 nonprofit nursing homes and hospitals, and a property tax exemption for
6 airports belonging to municipalities of adjoining states; amending RCW
7 82.04.280, 82.04.280, and 84.36.840; amending 2006 c 300 s 12
8 (uncodified); adding a new section to chapter 82.04 RCW; creating new
9 sections; repealing RCW 84.36.130; providing an effective date;
10 providing a contingent effective date; providing an expiration date;
11 providing a contingent expiration date; and declaring an emergency.

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

13

Part I.

14

Radio and TV Broadcasting

15 **Sec. 101.** RCW 82.04.280 and 2006 c 300 s 6 are each amended to
16 read as follows:

17 Upon every person engaging within this state in the business of:
18 (1) Printing, and of publishing newspapers, periodicals, or magazines;

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

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

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

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

15 **Sec. 102.** RCW 82.04.280 and 2006 c 300 s 7 are each amended to
16 read as follows:

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

1 (~~licensed under the provisions of RCW 48.05.310~~); (6) radio and
2 television broadcasting, excluding network, national and regional
3 advertising computed as a standard deduction (~~based on the national~~
4 ~~average thereof as annually reported by the Federal Communications~~
5 ~~Commission~~), which the department must publish by rule every fifth
6 year by September 30th, or in lieu thereof by itemization by the
7 individual broadcasting station, and excluding that portion of revenue
8 represented by the out-of-state audience computed as a ratio to the
9 station's total audience as measured by the 100 micro-volt signal
10 strength and delivery by wire, if any; (7) engaging in activities which
11 bring a person within the definition of consumer contained in RCW
12 82.04.190(6); as to such persons, the amount of tax on such business
13 shall be equal to the gross income of the business multiplied by the
14 rate of 0.484 percent.

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

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

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

34 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.04
35 RCW to read as follows:

36 For the standard deduction in RCW 82.04.280(6), the department must
37 study radio and television broadcasting, excluding network, national

1 and regional advertising to establish the standard deduction computed
2 as a ratio of the network, national and regional advertising revenue to
3 the total advertising revenue of the radio or television station
4 expressed as a percentage. The department must complete the study
5 using the best available information. This study must be completed by
6 August 1, 2009, and the standard deduction must be published by rule by
7 December 1, 2009. The study must be repeated every fifth year
8 thereafter by March 30th and the rule must be published every fifth
9 year by September 30th.

10 **Part II.**

11 **Nonprofit Property Tax Exemptions**

12 NEW SECTION. **Sec. 201.** (1) The legislature recognizes the rich
13 and diverse traditions represented by Washington's nonprofit homes for
14 the sick or infirm and nonprofit hospitals for the sick and the value
15 they provide to the residents and communities they serve as well as the
16 employees who provide loving compassionate care.

17 (2) The legislature finds requiring uniform and public reporting of
18 community benefit is one way these facilities can continue to
19 demonstrate the value provided in a manner consistent with the values
20 of transparency and public accountability. Further, the legislature
21 finds that Washington should adopt national standards for reporting of
22 community benefits for nonprofit hospitals and nonprofit homes for the
23 sick or infirm.

24 **Sec. 202.** RCW 84.36.840 and 2007 c 111 s 305 are each amended to
25 read as follows:

26 (1) In order to determine whether organizations, associations,
27 corporations, or institutions, except those exempted under RCW
28 84.36.020 and 84.36.030, are exempt from property taxes, and before the
29 exemption (~~shall be~~) is allowed for any year, the superintendent or
30 manager or other proper officer of the organization, association,
31 corporation, or institution claiming exemption from taxation (~~shall~~)
32 must file with the department of revenue a statement certifying that
33 the income and the receipts thereof, including donations to it, have
34 been applied to the actual expenses of operating and maintaining it, or
35 for its capital expenditures, and to no other purpose. This report

1 (~~shall~~) must also include a statement of the receipts and
2 disbursements of the exempt organization, association, corporation, or
3 institution.

4 (2) Educational institutions claiming exemption under RCW 84.36.050
5 (~~shall~~) must also file a list of all property claimed to be exempt,
6 the purpose for which it is used, the revenue derived from it for the
7 preceding year, the use to which the revenue was applied, the number of
8 students who attended the school or college, the total revenues of the
9 institution with the source from which they were derived, and the
10 purposes to which the revenues were applied, listing the items of such
11 revenues and expenditures in detail.

12 (3) Nonprofit homes for the sick or infirm and nonprofit hospitals
13 for the sick claiming exemptions under RCW 84.36.040(1) (d) and (e)
14 must also file on an annual basis no later than June 30th of each year,
15 with the department of revenue a community benefit report for the
16 preceding year. Community benefits include, but are not limited to:
17 Community health improvement services; health professions education;
18 subsidized health services; research; financial and in-kind
19 contributions; community-building activities; community benefit
20 operations; and charity care, including unreimbursed costs of indigent
21 government sponsored programs and medicaid shortfall. Nonprofit
22 hospitals for the sick must file a copy of the federal income tax form
23 990 "Schedule H" with the department to report data on community
24 benefits, including charity care. Nonprofit homes for the sick or
25 infirm must file a report on community benefits, including charity
26 care, on a standardized form developed by the department. The
27 standardized form must provide the same or similar relevant data as
28 required for the federal income tax form 990 "Schedule H" to report
29 data on community benefits, including charity care. Reports filed
30 under this subsection must be submitted electronically to the
31 department by June 30, 2010, for community benefits provided during
32 calendar year 2009, and by June 30th in each subsequent year
33 thereafter. The department must provide electronic notice of the
34 filing due date by May 31st of each year. The department may waive the
35 requirement to file reports electronically for good cause shown. If
36 the report is not received by the filing deadline, the exemption must
37 be removed. However, the department must allow a reasonable extension

1 of time for filing upon receipt of a written request on or before the
2 required filing date and for good cause shown therein.

3 (4) The reports required under subsections (1) and (2) of this
4 section may be submitted electronically, in a format provided or
5 approved by the department, or mailed to the department. The reports
6 (~~shall~~) must be submitted on or before March 31st of each year. The
7 department (~~shall~~) must remove the tax exemption from the property of
8 any organization, association, corporation, or institution that does
9 not file the required report with the department on or before the due
10 date. However, the department (~~shall~~) must allow a reasonable
11 extension of time for filing upon receipt of a written request on or
12 before the required filing date and for good cause shown therein.

13 **Part III.**

14 **Tax Exemption Repeals**

15 NEW SECTION. Sec. 301. RCW 84.36.130 (Airport property in this
16 state for smaller airports belonging to municipalities of adjoining
17 states) and 1998 c 201 s 1 & 1961 c 15 s 84.36.130 are each repealed.

18 **Part IV.**

19 **Miscellaneous Provisions**

20 NEW SECTION. Sec. 401. Part headings used in this act are not any
21 part of the law.

22 **Sec. 402.** 2006 c 300 s 12 (uncodified) is amended to read as
23 follows:

24 (1)(a) (~~This act and~~) Section 102, chapter . . ., Laws of 2009
25 (section 102 of this act), section 7, chapter 300, Laws of 2006, and
26 section 4, chapter 149, Laws of 2003 are contingent upon the siting and
27 commercial operation of a significant semiconductor microchip
28 fabrication facility in the state of Washington.

29 (b) For the purposes of this section:

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

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

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

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

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

11 (b) If, after making a determination that a contract has been
12 signed and (~~this act~~) chapter 149, Laws of 2003 is effective, the
13 department discovers that commencement of commercial production did not
14 take place within three years of the date the contract was signed, the
15 department (~~shall~~) must make a determination that (~~this act~~)
16 chapter 149, Laws of 2003 is no longer effective, and all taxes that
17 would have been otherwise due (~~shall be~~) are deemed deferred taxes
18 and are immediately assessed and payable from any person reporting tax
19 under RCW 82.04.240(2) or claiming an exemption or credit under section
20 2 or 5 through 10 (~~of this act~~), chapter 149, Laws of 2003. The
21 department is not authorized to make a second determination regarding
22 the effective date of (~~this act~~) chapter 149, Laws of 2003.

23 NEW SECTION. Sec. 403. (1) Section 103 of this act is necessary
24 for the immediate preservation of the public peace, health, or safety,
25 or support of the state government and its existing public
26 institutions, and takes effect July 1, 2009.

27 (2) Section 102 of this act takes effect if the contingency in
28 section 402 of this act occurs.

29 NEW SECTION. Sec. 404. Section 101 of this act expires on the
30 date that section 102 of this act takes effect.

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