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SENATE BILL 6096

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State of Washington

61st Legislature

2009 Regular Session

By Senator Tom

Read first time 02/25/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to the taxation of the manufacturing and selling of  
2 fuel for consumption outside the waters of the United States by vessels  
3 in foreign commerce; amending RCW 82.04.433; creating new sections; and  
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) Through this act the legislature intends  
7 to address the taxation of persons manufacturing and/or selling bunker  
8 fuel. Bunker fuel is fuel intended for consumption outside the waters  
9 of the United States by vessels in foreign commerce. Although the  
10 state has historically collected tax from bunker fuel manufacturers,  
11 recently questions have arisen whether the manufacture of bunker fuel  
12 is subject to business and occupation tax under RCW 82.04.240.  
13 Pursuant to this act, the activity is taxable under RCW 82.04.240.

14 (2) The legislature finds that at the time the deduction allowed  
15 under RCW 82.04.433 was enacted in 1985, it was intended to apply only  
16 to the wholesaling or retailing of bunker fuel. In 1987 the  
17 legislature enacted the multiple activities tax credit in RCW  
18 82.04.440. Enactment of the multiple activities tax credit resulted in  
19 changed tax liability for certain taxpayers. In particular, some

1 taxpayers that engaged in activities that had been exempt under the  
2 prior multiple activities exemption became subject to tax on  
3 manufacturing activities upon enactment of the multiple activities tax  
4 credit in its place. The manufacturing of bunker fuel is one such  
5 activity.

6 **Sec. 2.** RCW 82.04.433 and 1985 c 471 s 16 are each amended to read  
7 as follows:

8 (1) In computing tax there may be deducted from the measure of tax  
9 imposed under RCW 82.04.250 and 82.04.270 amounts derived from sales of  
10 fuel for consumption outside the territorial waters of the United  
11 States, by vessels used primarily in foreign commerce.

12 ~~(2) ((Nothing in this section shall be construed to imply that~~  
13 ~~amounts which may be deducted under this section were taxable under~~  
14 ~~Title 82 RCW prior to the enactment of this section.))~~ The deduction in  
15 subsection (1) of this section does not apply with respect to the tax  
16 imposed under RCW 82.04.240, whether the value of the fuel under that  
17 tax is measured by the gross proceeds derived from the sale thereof or  
18 otherwise under RCW 82.04.450.

19 NEW SECTION. **Sec. 3.** The department of revenue must take any  
20 actions that are necessary to ensure that its rules and other  
21 interpretive statements are consistent with this act.

22 NEW SECTION. **Sec. 4.** This act applies both prospectively and  
23 retroactively.

24 NEW SECTION. **Sec. 5.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and takes effect  
31 immediately.

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