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**SENATE BILL 6721**

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**State of Washington****61st Legislature****2010 Regular Session****By Senators Schoesler, Hobbs, and Honeyford**

Read first time 01/22/10. Referred to Committee on Ways &amp; Means.

1 AN ACT Relating to tax statute clarifications and technical  
2 corrections; amending RCW 39.100.050, 82.04.190, 82.04.3651, 82.04.394,  
3 82.08.0256, 82.08.02573, 82.08.0273, 82.08.700, 82.12.0257, 82.12.040,  
4 82.16.110, 82.32.080, 82.36.440, 82.38.280, 82.62.010, 82.80.120,  
5 83.100.040, 83.100.046, 83.100.046, 82.04.290, 29A.36.210, 36.68.525,  
6 36.69.145, 84.36.381, 84.37.030, 84.37.902, 84.48.050, 84.52.030,  
7 84.52.070, and 84.52.080; reenacting and amending RCW 82.04.050,  
8 82.04.360, 82.16.010, 82.16.010, 82.32.520, 84.34.020, and 84.36.383;  
9 adding a new section to chapter 82.32 RCW; repealing RCW 84.55.080;  
10 providing effective dates; and providing an expiration date.

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

**PART I****CLARIFICATIONS AND TECHNICAL CORRECTIONS**

14 **Sec. 101.** RCW 39.100.050 and 2007 c 266 s 6 are each amended to  
15 read as follows:

16 (1) A local government that creates a benefit zone and has received  
17 approval from the department under RCW 82.32.700 to impose the local  
18 option sales and use tax authorized in RCW 82.14.465 may use annually

1 any excess local excise taxes received by it from taxable activity  
2 within the benefit zone to finance public improvement costs associated  
3 with the public improvements financed in whole or in part by hospital  
4 benefit zone financing. The use of excess local excise taxes must  
5 cease when tax allocation revenues are no longer necessary or obligated  
6 to pay the costs of the public improvements. Any participating taxing  
7 authority is authorized to allocate excess local excise taxes to the  
8 local government as long as the local government has received approval  
9 from the department under RCW 82.32.700 to impose the local option  
10 sales and use tax authorized in RCW 82.14.465. The legislature  
11 declares that it is a proper purpose of a local government or  
12 participating taxing authority to allocate excess local excise taxes  
13 for purposes of financing public improvements under this chapter.

14 (2) A local government (~~shall~~) must provide the department  
15 accurate information describing the geographical boundaries of the  
16 benefit zone at least seventy-five days before the effective date of  
17 the ordinance creating the benefit zone. The local government  
18 (~~shall~~) must ensure that the boundary information provided to the  
19 department is kept current.

20 (3) The department (~~shall~~) must provide the necessary information  
21 to calculate excess local excise taxes to each local government that  
22 has provided boundary information to the department as provided in this  
23 section and that has received approval from the department under RCW  
24 82.32.700 to impose the local option sales and use tax authorized in  
25 RCW 82.14.465.

26 (4) The definitions in this subsection apply throughout this  
27 section unless the context clearly requires otherwise.

28 (a) "Base year" means the calendar year immediately following the  
29 creation of a benefit zone.

30 (b) "Excess local excise taxes" means the amount of local excise  
31 taxes received by the local government during the measurement year from  
32 taxable activity within the benefit zone over and above the amount of  
33 local excise taxes received by the local government during the base  
34 year from taxable activity within the benefit zone. However, if a  
35 local government creates the benefit zone and reasonably determines  
36 that no activity subject to tax under chapters 82.08 and 82.12 RCW  
37 occurred in the twelve months immediately preceding the creation of the  
38 benefit zone within the boundaries of the area that became the benefit

1 zone, "excess local excise taxes" means the entire amount of local  
2 excise taxes received by the local government during a calendar year  
3 period beginning with the calendar year immediately following the  
4 creation of the benefit zone and continuing with each measurement year  
5 thereafter.

6 (c) "Local excise taxes" means local revenues derived from the  
7 imposition of sales and use taxes authorized in RCW 82.14.030 at the  
8 tax rate that was in effect at the time the hospital benefit zone is  
9 approved by the department, except that if a local government reduces  
10 the rate of such tax after the (~~revenue development area~~) hospital  
11 benefit zone was approved, "local excise taxes" means the local  
12 revenues derived from the imposition of the sales and use taxes  
13 authorized in RCW 82.14.030 at the lower tax rate.

14 (d) "Measurement year" means a calendar year, beginning with the  
15 calendar year following the base year and each calendar year  
16 thereafter, that is used annually to measure the amount of excess state  
17 excise taxes and excess local excise taxes required to be used to  
18 finance public improvement costs associated with public improvements  
19 financed in whole or in part by hospital benefit zone financing.

20 **Sec. 102.** RCW 82.04.050 and 2009 c 563 s 301 and 2009 c 535 s 301  
21 are each reenacted and amended to read as follows:

22 (1)(a) "Sale at retail" or "retail sale" means every sale of  
23 tangible personal property (including articles produced, fabricated, or  
24 imprinted) to all persons irrespective of the nature of their business  
25 and including, among others, without limiting the scope hereof, persons  
26 who install, repair, clean, alter, improve, construct, or decorate real  
27 or personal property of or for consumers other than a sale to a person  
28 (~~who presents a seller's permit or uniform exemption certificate in~~  
29 ~~conformity with RCW 82.04.470 and~~) who:

30 ((+a)) (i) Purchases for the purpose of resale as tangible  
31 personal property in the regular course of business without intervening  
32 use by such person, but a purchase for the purpose of resale by a  
33 regional transit authority under RCW 81.112.300 is not a sale for  
34 resale; or

35 ((+b)) (ii) Installs, repairs, cleans, alters, imprints, improves,  
36 constructs, or decorates real or personal property of or for consumers,

1 if such tangible personal property becomes an ingredient or component  
2 of such real or personal property without intervening use by such  
3 person; or

4 ~~((+e))~~ (iii) Purchases for the purpose of consuming the property  
5 purchased in producing for sale as a new article of tangible personal  
6 property or substance, of which such property becomes an ingredient or  
7 component or is a chemical used in processing, when the primary purpose  
8 of such chemical is to create a chemical reaction directly through  
9 contact with an ingredient of a new article being produced for sale; or

10 ~~((+d))~~ (iv) Purchases for the purpose of consuming the property  
11 purchased in producing ferrosilicon which is subsequently used in  
12 producing magnesium for sale, if the primary purpose of such property  
13 is to create a chemical reaction directly through contact with an  
14 ingredient of ferrosilicon; or

15 ~~((+e))~~ (v) Purchases for the purpose of providing the property to  
16 consumers as part of competitive telephone service, as defined in RCW  
17 82.04.065 ~~((— The term shall include every sale of tangible personal  
18 property which is used or consumed or to be used or consumed in the  
19 performance of any activity classified as a "sale at retail" or "retail  
20 sale" even though such property is resold or utilized as provided in  
21 (a), (b), (c), (d), or (e) of this subsection following such use. The  
22 term also means every sale of tangible personal property to persons  
23 engaged in any business which is taxable under RCW 82.04.280 (2) and  
24 (7), 82.04.290, and 82.04.2908))~~; or

25 ~~((+f))~~ (vi) Purchases for the purpose of satisfying the person's  
26 obligations under an extended warranty as defined in subsection (7) of  
27 this section, if such tangible personal property replaces or becomes an  
28 ingredient or component of property covered by the extended warranty  
29 without intervening use by such person.

30 (b) The term includes every sale of tangible personal property that  
31 is used or consumed or to be used or consumed in the performance of any  
32 activity defined as a "sale at retail" or "retail sale" even though  
33 such property is resold or used as provided in (a)(i) through (vi) of  
34 this subsection following such use.

35 (c) The term also means every sale of tangible personal property to  
36 persons engaged in any business that is taxable under RCW 82.04.280 (2)  
37 and (7), 82.04.290, and 82.04.2908.

1 (2) The term "sale at retail" or "retail sale" includes the sale of  
2 or charge made for tangible personal property consumed and/or for labor  
3 and services rendered in respect to the following:

4 (a) The installing, repairing, cleaning, altering, imprinting, or  
5 improving of tangible personal property of or for consumers, including  
6 charges made for the mere use of facilities in respect thereto, but  
7 excluding charges made for the use of self-service laundry facilities,  
8 and also excluding sales of laundry service to nonprofit health care  
9 facilities, and excluding services rendered in respect to live animals,  
10 birds and insects;

11 (b) The constructing, repairing, decorating, or improving of new or  
12 existing buildings or other structures under, upon, or above real  
13 property of or for consumers, including the installing or attaching of  
14 any article of tangible personal property therein or thereto, whether  
15 or not such personal property becomes a part of the realty by virtue of  
16 installation, and shall also include the sale of services or charges  
17 made for the clearing of land and the moving of earth excepting the  
18 mere leveling of land used in commercial farming or agriculture;

19 (c) The constructing, repairing, or improving of any structure  
20 upon, above, or under any real property owned by an owner who conveys  
21 the property by title, possession, or any other means to the person  
22 performing such construction, repair, or improvement for the purpose of  
23 performing such construction, repair, or improvement and the property  
24 is then reconveyed by title, possession, or any other means to the  
25 original owner;

26 (d) The cleaning, fumigating, razing, or moving of existing  
27 buildings or structures, but (~~may~~) does not include the charge made  
28 for janitorial services; and for purposes of this section the term  
29 "janitorial services" (~~shall~~) means those cleaning and caretaking  
30 services ordinarily performed by commercial janitor service businesses  
31 including, but not limited to, wall and window washing, floor cleaning  
32 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
33 The term "janitorial services" does not include painting, papering,  
34 repairing, furnace or septic tank cleaning, snow removal or  
35 sandblasting;

36 (e) Automobile towing and similar automotive transportation  
37 services, but not in respect to those required to report and pay taxes  
38 under chapter 82.16 RCW;

1 (f) The furnishing of lodging and all other services by a hotel,  
2 rooming house, tourist court, motel, trailer camp, and the granting of  
3 any similar license to use real property, as distinguished from the  
4 renting or leasing of real property, and it is presumed that the  
5 occupancy of real property for a continuous period of one month or more  
6 constitutes a rental or lease of real property and not a mere license  
7 to use or enjoy the same. For the purposes of this subsection, it  
8 (~~shall be~~) is presumed that the sale of and charge made for the  
9 furnishing of lodging for a continuous period of one month or more to  
10 a person is a rental or lease of real property and not a mere license  
11 to enjoy the same;

12 (g) The installing, repairing, altering, or improving of digital  
13 goods for consumers;

14 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of  
15 this subsection when such sales or charges are for property, labor and  
16 services which are used or consumed in whole or in part by such persons  
17 in the performance of any activity defined as a "sale at retail" or  
18 "retail sale" even though such property, labor and services may be  
19 resold after such use or consumption. Nothing contained in this  
20 subsection (~~shall~~) may be construed to modify subsection (1) of this  
21 section and nothing contained in subsection (1) of this section may be  
22 construed to modify this subsection.

23 (3) The term "sale at retail" or "retail sale" includes the sale of  
24 or charge made for personal, business, or professional services  
25 including amounts designated as interest, rents, fees, admission, and  
26 other service emoluments however designated, received by persons  
27 engaging in the following business activities:

28 (a) Amusement and recreation services including but not limited to  
29 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips  
30 for sightseeing purposes, and others, when provided to consumers;

31 (b) Abstract, title insurance, and escrow services;

32 (c) Credit bureau services;

33 (d) Automobile parking and storage garage services;

34 (e) Landscape maintenance and horticultural services but excluding  
35 (i) horticultural services provided to farmers and (ii) pruning,  
36 trimming, repairing, removing, and clearing of trees and brush near  
37 electric transmission or distribution lines or equipment, if performed  
38 by or at the direction of an electric utility;

1 (f) Service charges associated with tickets to professional  
2 sporting events; and

3 (g) The following personal services: Physical fitness services,  
4 tanning salon services, tattoo parlor services, steam bath services,  
5 turkish bath services, escort services, and dating services.

6 (4)(a) The term also includes(~~(+~~  
7 ~~(+))~~) the renting or leasing of tangible personal property to  
8 consumers(~~(+and~~

9 ~~(ii) Providing tangible personal property along with an operator~~  
10 ~~for a fixed or indeterminate period of time. A consideration of this~~  
11 ~~is that the operator is necessary for the tangible personal property to~~  
12 ~~perform as designed. For the purpose of this subsection (4)(a)(ii), an~~  
13 ~~operator must do more than maintain, inspect, or set up the tangible~~  
14 ~~personal property)).~~

15 (b) The term does not include the renting or leasing of tangible  
16 personal property where the lease or rental is for the purpose of  
17 sublease or subrent.

18 (5) The term also includes the providing of "competitive telephone  
19 service," "telecommunications service," or "ancillary services," as  
20 those terms are defined in RCW 82.04.065, to consumers.

21 (6)(a) The term also includes the sale of prewritten computer  
22 software (~~(other than a sale)~~) to a (~~(person who presents a seller's~~  
23 ~~permit or uniform exemption certificate in conformity with RCW~~  
24 ~~82.04.470)~~) consumer, regardless of the method of delivery to the end  
25 user. For purposes of this subsection (6)(a), the sale of prewritten  
26 computer software includes the sale of or charge made for a key or an  
27 enabling or activation code, where the key or code is required to  
28 activate prewritten computer software and put the software into use.  
29 There is no separate sale of the key or code from the prewritten  
30 computer software, regardless of how the sale may be characterized by  
31 the vendor or by the purchaser.

32 The term "retail sale" does not include the sale of or charge made  
33 for:

34 (i) Custom software; or

35 (ii) The customization of prewritten computer software.

36 (b) The term also includes the charge made to consumers for the  
37 right to access and use prewritten computer software, where possession

1 of the software is maintained by the seller or a third party,  
2 regardless of whether the charge for the service is on a per use, per  
3 user, per license, subscription, or some other basis.

4 (7) The term also includes the sale of or charge made for an  
5 extended warranty to a consumer. For purposes of this subsection,  
6 "extended warranty" means an agreement for a specified duration to  
7 perform the replacement or repair of tangible personal property at no  
8 additional charge or a reduced charge for tangible personal property,  
9 labor, or both, or to provide indemnification for the replacement or  
10 repair of tangible personal property, based on the occurrence of  
11 specified events. The term "extended warranty" does not include an  
12 agreement, otherwise meeting the definition of extended warranty in  
13 this subsection, if no separate charge is made for the agreement and  
14 the value of the agreement is included in the sales price of the  
15 tangible personal property covered by the agreement. For purposes of  
16 this subsection, "sales price" has the same meaning as in RCW  
17 82.08.010.

18 (8)(a) The term also includes the following sales to consumers of  
19 digital goods, digital codes, and digital automated services:

20 (i) Sales in which the seller has granted the purchaser the right  
21 of permanent use;

22 (ii) Sales in which the seller has granted the purchaser a right of  
23 use that is less than permanent;

24 (iii) Sales in which the purchaser is not obligated to make  
25 continued payment as a condition of the sale; and

26 (iv) Sales in which the purchaser is obligated to make continued  
27 payment as a condition of the sale.

28 (b) A retail sale of digital goods, digital codes, or digital  
29 automated services under this subsection (8) includes any services  
30 provided by the seller exclusively in connection with the digital  
31 goods, digital codes, or digital automated services, whether or not a  
32 separate charge is made for such services.

33 (c) For purposes of this subsection, "permanent" means perpetual or  
34 for an indefinite or unspecified length of time. A right of permanent  
35 use is presumed to have been granted unless the agreement between the  
36 seller and the purchaser specifies or the circumstances surrounding the  
37 transaction suggest or indicate that the right to use terminates on the  
38 occurrence of a condition subsequent.



1       (9) The term also includes the charge made for providing tangible  
2 personal property along with an operator for a fixed or indeterminate  
3 period of time. A consideration of this is that the operator is  
4 necessary for the tangible personal property to perform as designed.  
5 For the purpose of this subsection (9), an operator must do more than  
6 maintain, inspect, or set up the tangible personal property.

7       (10) The term does not include the sale of or charge made for labor  
8 and services rendered in respect to the building, repairing, or  
9 improving of any street, place, road, highway, easement, right-of-way,  
10 mass public transportation terminal or parking facility, bridge,  
11 tunnel, or trestle which is owned by a municipal corporation or  
12 political subdivision of the state or by the United States and which is  
13 used or to be used primarily for foot or vehicular traffic including  
14 mass transportation vehicles of any kind.

15       (~~(10)~~) (11) The term also does not include sales of chemical  
16 sprays or washes to persons for the purpose of postharvest treatment of  
17 fruit for the prevention of scald, fungus, mold, or decay, nor does it  
18 include sales of feed, seed, seedlings, fertilizer, agents for enhanced  
19 pollination including insects such as bees, and spray materials to:  
20 (a) Persons who participate in the federal conservation reserve  
21 program, the environmental quality incentives program, the wetlands  
22 reserve program, and the wildlife habitat incentives program, or their  
23 successors administered by the United States department of agriculture;  
24 (b) farmers for the purpose of producing for sale any agricultural  
25 product; and (c) farmers acting under cooperative habitat development  
26 or access contracts with an organization exempt from federal income tax  
27 under (~~Title~~) 26 U.S.C. Sec. 501(c)(3) of the federal internal  
28 revenue code or the Washington state department of fish and wildlife to  
29 produce or improve wildlife habitat on land that the farmer owns or  
30 leases.

31       (~~(11)~~) (12) The term does not include the sale of or charge made  
32 for labor and services rendered in respect to the constructing,  
33 repairing, decorating, or improving of new or existing buildings or  
34 other structures under, upon, or above real property of or for the  
35 United States, any instrumentality thereof, or a county or city housing  
36 authority created pursuant to chapter 35.82 RCW, including the  
37 installing, or attaching of any article of tangible personal property  
38 therein or thereto, whether or not such personal property becomes a

1 part of the realty by virtue of installation. Nor does the term  
2 include the sale of services or charges made for the clearing of land  
3 and the moving of earth of or for the United States, any  
4 instrumentality thereof, or a county or city housing authority. Nor  
5 does the term include the sale of services or charges made for cleaning  
6 up for the United States, or its instrumentalities, radioactive waste  
7 and other by-products of weapons production and nuclear research and  
8 development.

9 ~~((12))~~ (13) The term does not include the sale of or charge made  
10 for labor, services, or tangible personal property pursuant to  
11 agreements providing maintenance services for bus, rail, or rail fixed  
12 guideway equipment when a regional transit authority is the recipient  
13 of the labor, services, or tangible personal property, and a transit  
14 agency, as defined in RCW 81.104.015, performs the labor or services.

15 **Sec. 103.** RCW 82.04.190 and 2009 c 535 s 302 are each amended to  
16 read as follows:

17 "Consumer" means the following:

18 (1) Any person who purchases, acquires, owns, holds, or uses any  
19 article of tangible personal property irrespective of the nature of the  
20 person's business and including, among others, without limiting the  
21 scope hereof, persons who install, repair, clean, alter, improve,  
22 construct, or decorate real or personal property of or for consumers  
23 other than for the purpose of:

24 (a) ~~((ef))~~ Resale as tangible personal property in the regular  
25 course of business ~~((ef))~~ ;

26 (b) ~~((ef))~~ Incorporating such property as an ingredient or  
27 component of real or personal property when installing, repairing,  
28 cleaning, altering, imprinting, improving, constructing, or decorating  
29 such real or personal property of or for consumers ~~((ef))~~ ;

30 (c) ~~((ef))~~ Consuming such property in producing for sale as a new  
31 article of tangible personal property or a new substance, of which such  
32 property becomes an ingredient or component or as a chemical used in  
33 processing, when the primary purpose of such chemical is to create a  
34 chemical reaction directly through contact with an ingredient of a new  
35 article being produced for sale ~~((ef))~~ ;

36 (d) ~~((ef))~~ Consuming the property purchased in producing  
37 ferrosilicon which is subsequently used in producing magnesium for

1 sale, if the primary purpose of such property is to create a chemical  
2 reaction directly through contact with an ingredient of ferrosilicon;  
3 or

4 (e) ((ef)) Satisfying the person's obligations under an extended  
5 warranty as defined in RCW 82.04.050(7), if such tangible personal  
6 property replaces or becomes an ingredient or component of property  
7 covered by the extended warranty without intervening use by such  
8 person;

9 (2)(a) Any person engaged in any business activity taxable under  
10 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or  
11 uses any competitive telephone service, ancillary services, or  
12 telecommunications service as those terms are defined in RCW 82.04.065,  
13 other than for resale in the regular course of business; (c) any person  
14 who purchases, acquires, or uses any service defined in RCW  
15 82.04.050(2) (a) or (g), other than for resale in the regular course of  
16 business or for the purpose of satisfying the person's obligations  
17 under an extended warranty as defined in RCW 82.04.050(7); (d) any  
18 person who purchases, acquires, or uses any amusement and recreation  
19 service defined in RCW 82.04.050(3)(a), other than for resale in the  
20 regular course of business; (e) any person who purchases or acquires an  
21 extended warranty as defined in RCW 82.04.050(7) other than for resale  
22 in the regular course of business; and (f) any person who is an end  
23 user of software. For purposes of this subsection (2)(f) and RCW  
24 82.04.050(6), a person who purchases or otherwise acquires prewritten  
25 computer software, who provides services described in RCW  
26 82.04.050(6)(b) and who will charge consumers for the right to access  
27 and use the prewritten computer software, is not an end user of the  
28 prewritten computer software;

29 (3) Any person engaged in the business of contracting for the  
30 building, repairing or improving of any street, place, road, highway,  
31 easement, right-of-way, mass public transportation terminal or parking  
32 facility, bridge, tunnel, or trestle which is owned by a municipal  
33 corporation or political subdivision of the state of Washington or by  
34 the United States and which is used or to be used primarily for foot or  
35 vehicular traffic including mass transportation vehicles of any kind as  
36 defined in RCW 82.04.280, in respect to tangible personal property when  
37 such person incorporates such property as an ingredient or component of  
38 such publicly owned street, place, road, highway, easement,

1 right-of-way, mass public transportation terminal or parking facility,  
2 bridge, tunnel, or trestle by installing, placing or spreading the  
3 property in or upon the right-of-way of such street, place, road,  
4 highway, easement, bridge, tunnel, or trestle or in or upon the site of  
5 such mass public transportation terminal or parking facility;

6 (4) Any person who is an owner, lessee or has the right of  
7 possession to or an easement in real property which is being  
8 constructed, repaired, decorated, improved, or otherwise altered by a  
9 person engaged in business, excluding only (a) municipal corporations  
10 or political subdivisions of the state in respect to labor and services  
11 rendered to their real property which is used or held for public road  
12 purposes, and (b) the United States, instrumentalities thereof, and  
13 county and city housing authorities created pursuant to chapter 35.82  
14 RCW in respect to labor and services rendered to their real property.  
15 Nothing contained in this or any other subsection of this definition  
16 shall be construed to modify any other definition of "consumer";

17 (5) Any person who is an owner, lessee, or has the right of  
18 possession to personal property which is being constructed, repaired,  
19 improved, cleaned, imprinted, or otherwise altered by a person engaged  
20 in business;

21 (6) Any person engaged in the business of constructing, repairing,  
22 decorating, or improving new or existing buildings or other structures  
23 under, upon, or above real property of or for the United States, any  
24 instrumentality thereof, or a county or city housing authority created  
25 pursuant to chapter 35.82 RCW, including the installing or attaching of  
26 any article of tangible personal property therein or thereto, whether  
27 or not such personal property becomes a part of the realty by virtue of  
28 installation; also, any person engaged in the business of clearing land  
29 and moving earth of or for the United States, any instrumentality  
30 thereof, or a county or city housing authority created pursuant to  
31 chapter 35.82 RCW. Any such person (~~shall be~~) is a consumer within  
32 the meaning of this subsection in respect to tangible personal property  
33 incorporated into, installed in, or attached to such building or other  
34 structure by such person, except that consumer does not include any  
35 person engaged in the business of constructing, repairing, decorating,  
36 or improving new or existing buildings or other structures under, upon,  
37 or above real property of or for the United States, or any

1 instrumentality thereof, if the investment project would qualify for  
2 sales and use tax deferral under chapter 82.63 RCW if undertaken by a  
3 private entity;

4 (7) Any person who is a lessor of machinery and equipment, the  
5 rental of which is exempt from the tax imposed by RCW 82.08.020 under  
6 RCW 82.08.02565, with respect to the sale of or charge made for  
7 tangible personal property consumed in respect to repairing the  
8 machinery and equipment, if the tangible personal property has a useful  
9 life of less than one year. Nothing contained in this or any other  
10 subsection of this section (~~shall~~) may be construed to modify any  
11 other definition of "consumer";

12 (8) Any person engaged in the business of cleaning up for the  
13 United States, or its instrumentalities, radioactive waste and other  
14 by-products of weapons production and nuclear research and development;

15 (9) Any person who is an owner, lessee, or has the right of  
16 possession of tangible personal property that, under the terms of an  
17 extended warranty as defined in RCW 82.04.050(7), has been repaired or  
18 is replacement property, but only with respect to the sale of or charge  
19 made for the repairing of the tangible personal property or the  
20 replacement property;

21 (10) Any person who purchases, acquires, or uses services described  
22 in RCW 82.04.050(6)(b) other than for resale in the regular course of  
23 business; (~~and~~)

24 (11)(a) Any end user of a digital product or digital code.

25 (b)(i) For purposes of this subsection, "end user" means any  
26 taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives  
27 by contract a digital product for further commercial broadcast,  
28 rebroadcast, transmission, retransmission, licensing, relicensing,  
29 distribution, redistribution or exhibition of the product, in whole or  
30 in part, to others. A person that purchases digital products or  
31 digital codes for the purpose of giving away such products or codes  
32 will not be considered to have engaged in the distribution or  
33 redistribution of such products or codes and will be treated as an end  
34 user;

35 (ii) If a purchaser of a digital code does not receive the  
36 contractual right to further redistribute, after the digital code is  
37 redeemed, the underlying digital product to which the digital code  
38 relates, then the purchaser of the digital code is an end user. If the

1 purchaser of the digital code receives the contractual right to further  
2 redistribute, after the digital code is redeemed, the underlying  
3 digital product to which the digital code relates, then the purchaser  
4 of the digital code is not an end user. A purchaser of a digital code  
5 who has the contractual right to further redistribute the digital code  
6 is an end user if that purchaser does not have the right to further  
7 redistribute, after the digital code is redeemed, the underlying  
8 digital product to which the digital code relates; and

9 (12) Any person who provides services described in RCW  
10 82.04.050(9). Any such person is a consumer with respect to the  
11 purchase, acquisition, or use of the tangible personal property that  
12 the person provides along with an operator in rendering services  
13 defined as a retail sale in RCW 82.04.050(9). Any such person may also  
14 be a consumer under other provisions of this section.

15 **Sec. 104.** RCW 82.04.360 and 1991 c 324 s 19 and 1991 c 275 s 2 are  
16 each reenacted and amended to read as follows:

17 (1) This chapter (~~(shall)~~) does not apply to any person in respect  
18 to his or her employment in the capacity of an employee or servant as  
19 distinguished from that of an independent contractor. For the purposes  
20 of this section, the definition of employee shall include those persons  
21 that are defined in section 3121(d)(3)(B) of the Internal Revenue Code  
22 of 1986, as amended through January 1, 1991.

23 (2) A booth renter(~~(, as defined by RCW 18.16.020,)~~) is an  
24 independent contractor for purposes of this chapter. For purposes of  
25 this subsection, "booth renter" means any person who:

26 (a) Performs cosmetology, barbering, esthetics, or manicuring  
27 services for which a license is required under chapter 18.16 RCW; and

28 (b) Pays a fee for the use of salon or shop facilities and receives  
29 no compensation or other consideration from the owner of the salon or  
30 shop for the services performed.

31 **Sec. 105.** RCW 82.04.3651 and 1999 c 358 s 3 are each amended to  
32 read as follows:

33 (1) This chapter does not apply to amounts received from  
34 fundraising activities by nonprofit organizations, as defined in  
35 subsection (2) of this section, (~~(for fund raising activities))~~ and  
36 libraries as defined in RCW 27.12.010.

1 (2) As used in this section, a "nonprofit organization" means:

2 (a) An organization exempt from tax under section 501(c) (3), (4),  
3 or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c)  
4 (3), (4), or (10));

5 (b) A nonprofit organization that would qualify under (a) of this  
6 subsection except that it is not organized as a nonprofit corporation;  
7 or

8 (c) A nonprofit organization that meets all of the following  
9 criteria:

10 (i) The members, stockholders, officers, directors, or trustees of  
11 the organization do not receive any part of the organization's gross  
12 income, except as payment for services rendered;

13 (ii) The compensation received by any person for services rendered  
14 to the organization does not exceed an amount reasonable under the  
15 circumstances; and

16 (iii) The activities of the organization do not include a  
17 substantial amount of political activity, including but not limited to  
18 influencing legislation and participation in any campaign on behalf of  
19 any candidate for political office.

20 (3) As used in this section, the term "fund-raising activity" means  
21 soliciting or accepting contributions of money or other property or  
22 activities involving the anticipated exchange of goods or services for  
23 money between the soliciting organization and the organization or  
24 person solicited, for the purpose of furthering the goals of the  
25 nonprofit organization. "Fund-raising activity" does not include the  
26 operation of a regular place of business in which sales are made during  
27 regular hours such as a bookstore, thrift shop, restaurant, or similar  
28 business or the operation of a regular place of business from which  
29 services are provided or performed during regular hours such as the  
30 provision of retail, personal, or professional services. The sale of  
31 used books, used videos, used sound recordings, or similar used  
32 information products in a library, as defined in RCW 27.12.010, is not  
33 the operation of a regular place of business for the purposes of this  
34 section, if the proceeds of the sales are used to support the library.

35 **Sec. 106.** RCW 82.04.394 and 1998 c 338 s 2 are each amended to  
36 read as follows:

37 (1) This chapter does not apply to amounts received by a property

1 management company from the owner of a property for gross wages and  
2 benefits paid directly to or on behalf of on-site personnel from  
3 property management trust accounts that are required to be maintained  
4 under RCW (~~(18.85.310)~~) 18.85.285.

5 (2) As used in this section, "on-site personnel" means a person who  
6 meets all of the following conditions: (a) The person works primarily  
7 at the owner's property; (b) the person's duties include leasing  
8 property units, maintaining the property, collecting rents, or similar  
9 activities; and (c) under a written property management agreement: (i)  
10 The person's compensation is the ultimate obligation of the property  
11 owner and not the property manager; (ii) the property manager is liable  
12 for payment only as agent of the owner; and (iii) the property manager  
13 is the agent of the owner with respect to the on-site personnel and  
14 that all actions, including, but not limited to, hiring, firing,  
15 compensation, and conditions of employment, taken by the property  
16 manager with respect to the on-site personnel are subject to the  
17 approval of the property owner.

18 **Sec. 107.** RCW 82.08.0256 and 2009 c 535 s 509 are each amended to  
19 read as follows:

20 The tax levied by RCW 82.08.020 does not apply to sales (including  
21 transfers of title through decree of appropriation) heretofore or  
22 hereafter made of the entire operating property of a publicly or  
23 privately owned public utility, or of a complete operating integral  
24 section thereof, to the state or a political subdivision thereof for  
25 use in conducting any public service business as defined in RCW  
26 82.16.010 (~~((1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or~~  
27 ~~(11))~~). For purposes of this section, "operating property" includes  
28 digital goods and digital codes.

29 **Sec. 108.** RCW 82.08.02573 and 1998 c 336 s 3 are each amended to  
30 read as follows:

31 The tax levied by RCW 82.08.020 does not apply to a sale made by a  
32 nonprofit organization or a library, if the gross income from the sale  
33 is exempt under RCW 82.04.3651.

34 **Sec. 109.** RCW 82.08.0273 and 2009 c 535 s 512 are each amended to  
35 read as follows:



1 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
2 nonresidents of this state of tangible personal property, digital  
3 goods, and digital codes, when such property is for use outside this  
4 state, and the purchaser (a) is a bona fide resident of a state or  
5 possession or Province of Canada other than the state of Washington and  
6 such state, possession, or Province of Canada does not impose a retail  
7 sales tax or use tax of three percent or more or, if imposing such a  
8 tax, permits Washington residents exemption from otherwise taxable  
9 sales by reason of their residence, and (b) agrees, when requested, to  
10 grant the department of revenue access to such records and other forms  
11 of verification at his or her place of residence to assure that such  
12 purchases are not first used substantially in the state of Washington.

13 (2) Notwithstanding anything to the contrary in this chapter, if  
14 parts or other tangible personal property are installed by the seller  
15 during the course of repairing, cleaning, altering, or improving motor  
16 vehicles, trailers, or campers and the seller makes a separate charge  
17 for the tangible personal property, the tax levied by RCW 82.08.020  
18 does not apply to the separately stated charge to a nonresident  
19 purchaser for the tangible personal property but only if the separately  
20 stated charge does not exceed either the seller's current publicly  
21 stated retail price for the tangible personal property or, if no  
22 publicly stated retail price is available, the seller's cost for the  
23 tangible personal property. However, the exemption provided by this  
24 section does not apply if tangible personal property is installed by  
25 the seller during the course of repairing, cleaning, altering, or  
26 improving motor vehicles, trailers, or campers and the seller makes a  
27 single nonitemized charge for providing the tangible personal property  
28 and service. All of the requirements in subsections (1) and (3)  
29 through (6) of this section apply to this subsection.

30 (3)(a) Any person claiming exemption from retail sales tax under  
31 the provisions of this section must display proof of his or her current  
32 nonresident status as provided in this section.

33 (b) Acceptable proof of a nonresident person's status includes one  
34 piece of identification such as a valid driver's license from the  
35 jurisdiction in which the out-of-state residency is claimed or a valid  
36 identification card which has a photograph of the holder and is issued  
37 by the out-of-state jurisdiction. Identification under this subsection

1 (3)(b) must show the holder's residential address and have as one of  
2 its legal purposes the establishment of residency in that out-of-state  
3 jurisdiction.

4 (c) In lieu of furnishing proof of a person's nonresident status  
5 under (b) of this subsection (3), a person claiming exemption from  
6 retail sales tax under the provisions of this section may provide the  
7 seller with an exemption certificate in compliance with subsection  
8 (4)(b) of this section.

9 (4)(a) Nothing in this section requires the vendor to make tax  
10 exempt retail sales to nonresidents. A vendor may choose to make sales  
11 to nonresidents, collect the sales tax, and remit the amount of sales  
12 tax collected to the state as otherwise provided by law. If the vendor  
13 chooses to make a sale to a nonresident without collecting the sales  
14 tax, the vendor (~~(shall, in good faith,)~~) must examine the purchaser's  
15 proof of nonresidence, determine whether the proof is acceptable under  
16 subsection (3)(b) of this section, and maintain records for each  
17 nontaxable sale which shall show the type of proof accepted, including  
18 any identification numbers where appropriate, and the expiration date,  
19 if any.

20 (b) In lieu of using the method provided in (a) of this subsection  
21 to document an exempt sale to a nonresident, a seller may accept from  
22 the purchaser a properly completed uniform exemption certificate  
23 approved by the streamlined sales and use tax agreement governing board  
24 or any other exemption certificate as may be authorized by the  
25 department and properly completed by the purchaser. A nonresident  
26 purchaser who uses an exemption certificate authorized in this  
27 subsection (4)(b) must include the purchaser's driver's license number  
28 or other state-issued identification number and the state of issuance.

29 (c) In lieu of using the methods provided in (a) and (b) of this  
30 subsection to document an exempt sale to a nonresident, a seller may  
31 capture the relevant data elements as allowed under the streamlined  
32 sales and use tax agreement.

33 (5)(a) Any person making fraudulent statements, which includes the  
34 offer of fraudulent identification or fraudulently procured  
35 identification to a vendor, in order to purchase goods without paying  
36 retail sales tax is guilty of perjury under chapter 9A.72 RCW.

37 (b) Any person making tax exempt purchases under this section by  
38 displaying proof of identification not his or her own, or counterfeit

1 identification, with intent to violate the provisions of this section,  
2 is guilty of a misdemeanor and, in addition, is liable for the tax and  
3 subject to a penalty equal to the greater of one hundred dollars or the  
4 tax due on such purchases.

5 (6)(a) Any vendor who makes sales without collecting the tax (~~to~~  
6 ~~a person who does not hold valid identification establishing out-of-~~  
7 ~~state residency, and any vendor~~) and who fails to maintain records of  
8 sales to nonresidents as provided in this section(~~(7)~~) is personally  
9 liable for the amount of tax due.

10 (b) Any vendor who makes sales without collecting the retail sales  
11 tax under this section and who has actual knowledge that the  
12 purchaser's proof of identification establishing out-of-state residency  
13 is fraudulent is guilty of a misdemeanor and, in addition, is liable  
14 for the tax and subject to a penalty equal to the greater of one  
15 thousand dollars or the tax due on such sales. In addition, both the  
16 purchaser and the vendor are liable for any penalties and interest  
17 assessable under chapter 82.32 RCW.

18 **Sec. 110.** RCW 82.08.700 and 2007 c 22 s 1 are each amended to read  
19 as follows:

20 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
21 nonresident individuals of vessels thirty feet or longer if an  
22 individual purchasing a vessel purchases and displays a valid use  
23 permit.

24 (2)(a) An individual claiming exemption from retail sales tax under  
25 this section must display proof of his or her current nonresident  
26 status at the time of purchase.

27 (b) Acceptable proof of a nonresident individual's status includes  
28 one piece of identification such as a valid driver's license from the  
29 jurisdiction in which the out-of-state residency is claimed or a valid  
30 identification card that has a photograph of the holder and is issued  
31 by the out-of-state jurisdiction. Identification under this subsection  
32 (2)(b) must show the holder's residential address and have as one of  
33 its legal purposes the establishment of residency in that out-of-state  
34 jurisdiction.

35 (3) Nothing in this section requires the vessel dealer to make tax  
36 exempt retail sales to nonresidents. A dealer may choose to make sales  
37 to nonresidents, collect the sales tax, and remit the amount of sales

1 tax collected to the state as otherwise provided by law. If the dealer  
2 chooses to make a sale to a nonresident without collecting the sales  
3 tax, the vendor (~~((shall, in good faith,))~~) must examine the proof of  
4 nonresidence, determine whether the proof is acceptable under  
5 subsection (2)(b) of this section, and maintain records for each  
6 nontaxable sale that shows the type of proof accepted, including any  
7 identification numbers where appropriate, and the expiration date, if  
8 any.

9 (4) A vessel dealer shall issue a use permit to a buyer if the  
10 dealer is satisfied that the buyer is a nonresident. The use permit  
11 (~~((shall))~~) must be in a form and manner required by the department and  
12 (~~((shall))~~) must include an affidavit, signed by the purchaser, declaring  
13 that the vessel will be used in a manner consistent with this section.  
14 The fee for the issuance of a use permit is five hundred dollars for  
15 vessels fifty feet in length or less and eight hundred dollars for  
16 vessels greater than fifty feet in length. Funds collected under this  
17 section and RCW 82.12.700 (~~((shall))~~) must be reported on the dealer's  
18 excise tax return and remitted to the department in accordance with RCW  
19 82.32.045. The department (~~((shall))~~) must transmit the fees to the  
20 state treasurer to be deposited in the state general fund. The use  
21 permit must be displayed on the vessel and is valid for twelve  
22 consecutive months from the date of issuance. A use permit is not  
23 renewable. A purchaser at the time of purchase must make an  
24 irrevocable election to take the exemption authorized in this section  
25 or the exemption in either RCW 82.08.0266 or 82.08.02665. A vessel  
26 dealer must maintain a copy of the use permit for the dealer's records.  
27 Vessel dealers must provide copies of use permits issued by the dealer  
28 under this section and RCW 82.12.700 to the department on a quarterly  
29 basis.

30 (5) A nonresident who claims an exemption under this section and  
31 who uses a vessel in this state after his or her use permit for that  
32 vessel has expired is liable for the tax imposed under RCW 82.08.020 on  
33 the original selling price of the vessel and (~~((shall))~~) must pay the tax  
34 directly to the department. Interest at the rate provided in RCW  
35 82.32.050 applies to amounts due under this subsection, retroactively  
36 to the date the vessel was purchased, and accrues until the full amount  
37 of tax due is paid to the department.

1 (6) Any vessel dealer who makes sales without collecting the tax to  
2 a person who does not hold valid identification establishing  
3 out-of-state residency, and any dealer who fails to maintain records of  
4 sales to nonresidents as provided in this section, is personally liable  
5 for the amount of tax due.

6 (7) Chapter 82.32 RCW applies to the administration of the fee  
7 imposed in this section and RCW 82.12.700.

8 (8) A vessel dealer that issues use permits under this section and  
9 RCW 82.12.700 must file with the department all returns in an  
10 electronic format as provided or approved by the department. As used  
11 in this subsection, "returns" has the same meaning as "return" in RCW  
12 82.32.050.

13 (a) Any return required to be filed in an electronic format under  
14 this subsection is not filed until received by the department in an  
15 electronic format provided or approved by the department.

16 (b) The electronic filing requirement in this subsection ends when  
17 a vessel dealer no longer issues use permits, and the dealer has  
18 electronically filed all of its returns reporting the fees collected  
19 under this section and RCW 82.12.700.

20 (c) The department may waive the electronic filing requirement in  
21 this subsection for good cause shown.

22 **Sec. 111.** RCW 82.12.0257 and 2009 c 535 s 611 are each amended to  
23 read as follows:

24 The provisions of this chapter do not apply in respect to the use  
25 of any article of personal property included within the transfer of the  
26 title to the entire operating property of a publicly or privately owned  
27 public utility, or of a complete operating integral section thereof, by  
28 the state or a political subdivision thereof in conducting any public  
29 service business as defined in RCW 82.16.010 (~~((1), (2), (3), (4), (5),~~  
30 ~~(6), (7), (8), (9), (10), or (11))~~). For the purposes of this section,  
31 "operating property" includes digital goods and digital codes.

32 **Sec. 112.** RCW 82.12.040 and 2009 c 535 s 1108 are each amended to  
33 read as follows:

34 (1) Every person who maintains in this state a place of business or  
35 a stock of goods, or engages in business activities within this state,  
36 shall obtain from the department a certificate of registration, and

1 shall, at the time of making sales of tangible personal property,  
2 digital goods, digital codes, digital automated services, extended  
3 warranties, or sales of any service defined as a retail sale in RCW  
4 82.04.050 (2) (a) or (g), (3)(a), or (6)(b), or making transfers of  
5 either possession or title, or both, of tangible personal property for  
6 use in this state, collect from the purchasers or transferees the tax  
7 imposed under this chapter. The tax to be collected under this section  
8 must be in an amount equal to the purchase price multiplied by the rate  
9 in effect for the retail sales tax under RCW 82.08.020. For the  
10 purposes of this chapter, the phrase "maintains in this state a place  
11 of business" shall include the solicitation of sales and/or taking of  
12 orders by sales agents or traveling representatives. For the purposes  
13 of this chapter, "engages in business activity within this state"  
14 includes every activity which is sufficient under the Constitution of  
15 the United States for this state to require collection of tax under  
16 this chapter. The department must in rules specify activities which  
17 constitute engaging in business activity within this state, and must  
18 keep the rules current with future court interpretations of the  
19 Constitution of the United States.

20 (2) Every person who engages in this state in the business of  
21 acting as an independent selling agent for persons who do not hold a  
22 valid certificate of registration, and who receives compensation by  
23 reason of sales of tangible personal property, digital goods, digital  
24 codes, digital automated services, extended warranties, or sales of any  
25 service defined as a retail sale in RCW 82.04.050 (2) (a) or (g),  
26 (3)(a), or (6)(b), of his or her principals for use in this state,  
27 must, at the time such sales are made, collect from the purchasers the  
28 tax imposed on the purchase price under this chapter, and for that  
29 purpose (~~shall be~~) is deemed a retailer as defined in this chapter.

30 (3) The tax required to be collected by this chapter is deemed to  
31 be held in trust by the retailer until paid to the department, and any  
32 retailer who appropriates or converts the tax collected to the  
33 retailer's own use or to any use other than the payment of the tax  
34 provided herein to the extent that the money required to be collected  
35 is not available for payment on the due date as prescribed is guilty of  
36 a misdemeanor. In case any seller fails to collect the tax herein  
37 imposed or having collected the tax, fails to pay the same to the  
38 department in the manner prescribed, whether such failure is the result

1 of the seller's own acts or the result of acts or conditions beyond the  
2 seller's control, the seller is nevertheless personally liable to the  
3 state for the amount of such tax, unless the seller has taken from the  
4 buyer (~~in good faith~~) a copy of a direct pay permit issued under RCW  
5 82.32.087.

6 (4) Any retailer who refunds, remits, or rebates to a purchaser, or  
7 transferee, either directly or indirectly, and by whatever means, all  
8 or any part of the tax levied by this chapter is guilty of a  
9 misdemeanor.

10 (5) Notwithstanding subsections (1) through (4) of this section,  
11 any person making sales is not obligated to collect the tax imposed by  
12 this chapter if:

13 (a) The person's activities in this state, whether conducted  
14 directly or through another person, are limited to:

15 (i) The storage, dissemination, or display of advertising;

16 (ii) The taking of orders; or

17 (iii) The processing of payments; and

18 (b) The activities are conducted electronically via a web site on  
19 a server or other computer equipment located in Washington that is not  
20 owned or operated by the person making sales into this state nor owned  
21 or operated by an affiliated person. "Affiliated persons" has the same  
22 meaning as provided in RCW 82.04.424.

23 (6) Subsection (5) of this section expires when: (a) The United  
24 States congress grants individual states the authority to impose sales  
25 and use tax collection duties on remote sellers; or (b) it is  
26 determined by a court of competent jurisdiction, in a judgment not  
27 subject to review, that a state can impose sales and use tax collection  
28 duties on remote sellers.

29 (7) Notwithstanding subsections (1) through (4) of this section,  
30 any person making sales is not obligated to collect the tax imposed by  
31 this chapter if the person would have been obligated to collect retail  
32 sales tax on the sale absent a specific exemption provided in chapter  
33 82.08 RCW, and there is no corresponding use tax exemption in this  
34 chapter. Nothing in this subsection (7) may be construed as relieving  
35 purchasers from liability for reporting and remitting the tax due under  
36 this chapter directly to the department.

1       **Sec. 113.** RCW 82.16.010 and 2009 c 535 s 1110 and 2009 c 469 s 701  
2 are each reenacted and amended to read as follows:

3       For the purposes of this chapter, unless otherwise required by the  
4 context:

5       (1) "Express business" means the business of carrying property for  
6 public hire on the line of any common carrier operated in this state,  
7 when such common carrier is not owned or leased by the person engaging  
8 in such business.

9       (2) "Gas distribution business" means the business of operating a  
10 plant or system for the production or distribution for hire or sale of  
11 gas, whether manufactured or natural.

12       (3) "Gross income" means the value proceeding or accruing from the  
13 performance of the particular public service or transportation business  
14 involved, including operations incidental thereto, but without any  
15 deduction on account of the cost of the commodity furnished or sold,  
16 the cost of materials used, labor costs, interest, discount, delivery  
17 costs, taxes, or any other expense whatsoever paid or accrued and  
18 without any deduction on account of losses.

19       (4) "Light and power business" means the business of operating a  
20 plant or system for the generation, production or distribution of  
21 electrical energy for hire or sale and/or for the wheeling of  
22 electricity for others.

23       (5) "Log transportation business" means the business of  
24 transporting logs by truck, other than exclusively upon private roads.

25       (6) "Motor transportation business" means the business (except  
26 urban transportation business) of operating any motor propelled vehicle  
27 by which persons or property of others are conveyed for hire, and  
28 includes, but is not limited to, the operation of any motor propelled  
29 vehicle as an auto transportation company (except urban transportation  
30 business), common carrier, or contract carrier as defined by RCW  
31 81.68.010 and 81.80.010. However, "motor transportation business" does  
32 not mean or include: (a) A log transportation business; or (b) the  
33 transportation of logs or other forest products exclusively upon  
34 private roads or private highways.

35       (7)(a) "Public service business" means any of the businesses  
36 defined in subsections (1), (2), (4), (6), (8), (9), (10), (12), and  
37 (13) of this section or any business subject to control by the state,  
38 or having the powers of eminent domain and the duties incident thereto,



1 or any business hereafter declared by the legislature to be of a public  
2 service nature, except telephone business and low-level radioactive  
3 waste site operating companies as redefined in RCW 81.04.010. It  
4 includes, among others, without limiting the scope hereof: Airplane  
5 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging  
6 road, water transportation and wharf businesses.

7 (b) The definitions in this subsection (7)(b) apply throughout this  
8 subsection (7).

9 (i) "Competitive telephone service" has the same meaning as in RCW  
10 82.04.065.

11 (ii) "Network telephone service" means the providing by any person  
12 of access to a telephone network, telephone network switching service,  
13 toll service, or coin telephone services, or the providing of  
14 telephonic, video, data, or similar communication or transmission for  
15 hire, via a telephone network, toll line or channel, cable, microwave,  
16 or similar communication or transmission system. "Network telephone  
17 service" includes the provision of transmission to and from the site of  
18 an internet provider via a telephone network, toll line or channel,  
19 cable, microwave, or similar communication or transmission system.  
20 "Network telephone service" does not include the providing of  
21 competitive telephone service, the providing of cable television  
22 service, the providing of broadcast services by radio or television  
23 stations, nor the provision of internet access as defined in RCW  
24 82.04.297, including the reception of dial-in connection, provided at  
25 the site of the internet service provider.

26 (iii) "Telephone business" means the business of providing network  
27 telephone service. It includes cooperative or farmer line telephone  
28 companies or associations operating an exchange.

29 (iv) "Telephone service" means competitive telephone service or  
30 network telephone service, or both, as defined in (b)(i) and (ii) of  
31 this subsection.

32 (8) "Railroad business" means the business of operating any  
33 railroad, by whatever power operated, for public use in the conveyance  
34 of persons or property for hire. It shall not, however, include any  
35 business herein defined as an urban transportation business.

36 (9) "Railroad car business" means the business of operating stock  
37 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank  
38 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any

1 other kinds of cars used for transportation of property or persons upon  
2 the line of any railroad operated in this state when such railroad is  
3 not owned or leased by the person engaging in such business.

4 (10) "Telegraph business" means the business of affording  
5 telegraphic communication for hire.

6 (11) "Tugboat business" means the business of operating tugboats,  
7 towboats, wharf boats or similar vessels in the towing or pushing of  
8 vessels, barges or rafts for hire.

9 (12) "Urban transportation business" means the business of  
10 operating any vehicle for public use in the conveyance of persons or  
11 property for hire, other than a log transportation business, insofar as  
12 (a) operating entirely within the corporate limits of any city or town,  
13 or within five miles of the corporate limits thereof, or (b) operating  
14 entirely within and between cities and towns whose corporate limits are  
15 not more than five miles apart or within five miles of the corporate  
16 limits of either thereof. Included herein, but without limiting the  
17 scope hereof, is the business of operating passenger vehicles of every  
18 type and also the business of operating cartage, pickup, or delivery  
19 services, including in such services the collection and distribution of  
20 property arriving from or destined to a point within or without the  
21 state, whether or not such collection or distribution be made by the  
22 person performing a local or interstate line-haul of such property.

23 (13) "Water distribution business" means the business of operating  
24 a plant or system for the distribution of water for hire or sale.

25 (14) The meaning attributed, in chapter 82.04 RCW, to the term "tax  
26 year," "person," "value proceeding or accruing," "business," "engaging  
27 in business," "in this state," "within this state," "cash discount" and  
28 "successor" (~~shall apply~~) applies equally in the provisions of this  
29 chapter.

30 **Sec. 114.** RCW 82.16.010 and 2009 c 535 s 1110 are each reenacted  
31 and amended to read as follows:

32 For the purposes of this chapter, unless otherwise required by the  
33 context:

34 (1) "Express business" means the business of carrying property for  
35 public hire on the line of any common carrier operated in this state,  
36 when such common carrier is not owned or leased by the person engaging  
37 in such business.

1 (2) "Gas distribution business" means the business of operating a  
2 plant or system for the production or distribution for hire or sale of  
3 gas, whether manufactured or natural.

4 (3) "Gross income" means the value proceeding or accruing from the  
5 performance of the particular public service or transportation business  
6 involved, including operations incidental thereto, but without any  
7 deduction on account of the cost of the commodity furnished or sold,  
8 the cost of materials used, labor costs, interest, discount, delivery  
9 costs, taxes, or any other expense whatsoever paid or accrued and  
10 without any deduction on account of losses.

11 (4) "Light and power business" means the business of operating a  
12 plant or system for the generation, production or distribution of  
13 electrical energy for hire or sale and/or for the wheeling of  
14 electricity for others.

15 (5) "Motor transportation business" means the business (except  
16 urban transportation business) of operating any motor propelled vehicle  
17 by which persons or property of others are conveyed for hire, and  
18 includes, but is not limited to, the operation of any motor propelled  
19 vehicle as an auto transportation company (except urban transportation  
20 business), common carrier, or contract carrier as defined by RCW  
21 81.68.010 and 81.80.010. However, "motor transportation business" does  
22 not mean or include the transportation of logs or other forest products  
23 exclusively upon private roads or private highways.

24 (6)(a) "Public service business" means any of the businesses  
25 defined in subsections (1), (2), (4), (5), (7), (8), (9), (11), and  
26 (12) of this section or any business subject to control by the state,  
27 or having the powers of eminent domain and the duties incident thereto,  
28 or any business hereafter declared by the legislature to be of a public  
29 service nature, except telephone business and low-level radioactive  
30 waste site operating companies as redefined in RCW 81.04.010. It  
31 includes, among others, without limiting the scope hereof: Airplane  
32 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging  
33 road, water transportation and wharf businesses.

34 (b) The definitions in this subsection (6)(b) apply throughout this  
35 subsection (6).

36 (i) "Competitive telephone service" has the same meaning as in RCW  
37 82.04.065.

1 (ii) "Network telephone service" means the providing by any person  
2 of access to a telephone network, telephone network switching service,  
3 toll service, or coin telephone services, or the providing of  
4 telephonic, video, data, or similar communication or transmission for  
5 hire, via a telephone network, toll line or channel, cable, microwave,  
6 or similar communication or transmission system. "Network telephone  
7 service" includes the provision of transmission to and from the site of  
8 an internet provider via a telephone network, toll line or channel,  
9 cable, microwave, or similar communication or transmission system.  
10 "Network telephone service" does not include the providing of  
11 competitive telephone service, the providing of cable television  
12 service, the providing of broadcast services by radio or television  
13 stations, nor the provision of internet access as defined in RCW  
14 82.04.297, including the reception of dial-in connection, provided at  
15 the site of the internet service provider.

16 (iii) "Telephone business" means the business of providing network  
17 telephone service. It includes cooperative or farmer line telephone  
18 companies or associations operating an exchange.

19 (iv) "Telephone service" means competitive telephone service or  
20 network telephone service, or both, as defined in (b)(i) and (ii) of  
21 this subsection.

22 (7) "Railroad business" means the business of operating any  
23 railroad, by whatever power operated, for public use in the conveyance  
24 of persons or property for hire. It shall not, however, include any  
25 business herein defined as an urban transportation business.

26 (8) "Railroad car business" means the business of operating stock  
27 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank  
28 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any  
29 other kinds of cars used for transportation of property or persons upon  
30 the line of any railroad operated in this state when such railroad is  
31 not owned or leased by the person engaging in such business.

32 (9) "Telegraph business" means the business of affording  
33 telegraphic communication for hire.

34 (10) "Tugboat business" means the business of operating tugboats,  
35 towboats, wharf boats or similar vessels in the towing or pushing of  
36 vessels, barges or rafts for hire.

37 (11) "Urban transportation business" means the business of  
38 operating any vehicle for public use in the conveyance of persons or

1 property for hire, other than a log transportation business, insofar as  
2 (a) operating entirely within the corporate limits of any city or town,  
3 or within five miles of the corporate limits thereof, or (b) operating  
4 entirely within and between cities and towns whose corporate limits are  
5 not more than five miles apart or within five miles of the corporate  
6 limits of either thereof. Included herein, but without limiting the  
7 scope hereof, is the business of operating passenger vehicles of every  
8 type and also the business of operating cartage, pickup, or delivery  
9 services, including in such services the collection and distribution of  
10 property arriving from or destined to a point within or without the  
11 state, whether or not such collection or distribution be made by the  
12 person performing a local or interstate line-haul of such property.

13 (12) "Water distribution business" means the business of operating  
14 a plant or system for the distribution of water for hire or sale.

15 (13) The meaning attributed, in chapter 82.04 RCW, to the term "tax  
16 year," "person," "value proceeding or accruing," "business," "engaging  
17 in business," "in this state," "within this state," "cash discount" and  
18 "successor" (~~shall apply~~) applies equally in the provisions of this  
19 chapter.

20 **Sec. 115.** RCW 82.16.110 and 2009 c 469 s 504 are each amended to  
21 read as follows:

22 The definitions in this section apply throughout this chapter  
23 unless the context clearly requires otherwise.

24 (1)(a) "Community solar project" means:

25 (i) A solar energy system owned by local individuals, households,  
26 nonprofit organizations, or nonutility businesses that is placed on the  
27 property owned by a cooperating local governmental entity that is not  
28 in the light and power business or in the gas distribution business; or

29 (ii) A utility-owned solar energy system that is voluntarily funded  
30 by the utility's ratepayers where, in exchange for their financial  
31 support, the utility gives contributors a payment or credit on their  
32 utility bill for the value of the electricity produced by the project.

33 (b) For the purposes of "community solar project" as defined in (a)  
34 of this subsection:

35 (i) "Nonprofit organization" means an organization exempt from  
36 taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal  
37 revenue code of 1986, as amended, as of January 1, 2009; and

1 (ii) "Utility" means a light and power business, an electric  
2 cooperative, or a mutual corporation that provides electricity service.

3 (2) "Customer-generated electricity" means a community solar  
4 project or the alternating current electricity that is generated from  
5 a renewable energy system located on an individual's, businesses', or  
6 local government's real property that is also provided electricity  
7 generated by a light and power business. Except for community solar  
8 projects, a system located on a leasehold interest does not qualify  
9 under this definition. Except for utility-owned community solar  
10 projects, "customer-generated electricity" does not include electricity  
11 generated by a light and power business with greater than one thousand  
12 megawatt hours of annual sales or a gas distribution business.

13 (3) "Economic development kilowatt-hour" means the actual kilowatt-  
14 hour measurement of customer-generated electricity multiplied by the  
15 appropriate economic development factor.

16 (4) "Local governmental entity" means any unit of local government  
17 of this state including, but not limited to, counties, cities, towns,  
18 municipal corporations, quasi-municipal corporations, special purpose  
19 districts, and school districts.

20 (5) "Photovoltaic cell" means a device that converts light directly  
21 into electricity without moving parts.

22 (6) "Renewable energy system" means a solar energy system, an  
23 anaerobic digester as defined in RCW 82.08.900, or a wind generator  
24 used for producing electricity.

25 (7) "Solar energy system" means any device or combination of  
26 devices or elements that rely upon direct sunlight as an energy source  
27 for use in the generation of electricity.

28 (8) "Solar inverter" means the device used to convert direct  
29 current to alternating current in a photovoltaic cell system.

30 (9) "Solar module" means the smallest nondivisible self-contained  
31 physical structure housing interconnected photovoltaic cells and  
32 providing a single direct current electrical output.

33 **Sec. 116.** RCW 82.32.080 and 2009 c 176 s 2 are each amended to  
34 read as follows:

35 (1) When authorized by the department, payment of the tax may be  
36 made by uncertified check under such rules as the department  
37 prescribes, but, if a check so received is not paid by the bank on

1 which it is drawn, the taxpayer, by whom such check is tendered, will  
2 remain liable for payment of the tax and for all legal penalties, the  
3 same as if such check had not been tendered.

4 (2)(a) Except as otherwise provided in this subsection, payment of  
5 the tax must be made by electronic funds transfer, as defined in RCW  
6 82.32.085, if the taxpayer is required to file and remit its taxes on  
7 a monthly basis. As an alternative to electronic funds transfer, the  
8 department may authorize other forms of electronic payment, such as  
9 credit card and e-check. All taxes administered by this chapter are  
10 subject to this requirement except the taxes authorized by chapters  
11 82.14A, 82.14B, 82.24, (~~82.27~~) 82.29A, and 84.33 RCW. It is the  
12 intent of this subsection to require electronic payment for those taxes  
13 reported on the department's combined excise tax return or any  
14 successor return. The mandatory electronic payment requirement in this  
15 subsection also applies to taxpayers who meet the threshold for filing  
16 and remitting taxes on a monthly basis as established by rule of the  
17 department but for whom the department has authorized a less frequent  
18 reporting frequency, when such authorization became effective on or  
19 after July 26, 2009.

20 (b) The department, for good cause, may waive the electronic  
21 payment requirement in this subsection for any taxpayer. In the  
22 discretion of the department, a waiver under this subsection may be  
23 made temporary or permanent, and may be made on the department's own  
24 motion.

25 (c) The department is authorized to accept payment of taxes by  
26 electronic funds transfer or other acceptable forms of electronic  
27 payment from taxpayers that are not subject to the mandatory electronic  
28 payment requirements in this subsection.

29 (3)(a) Except as otherwise provided in this subsection, returns  
30 must be filed electronically using the department's online tax filing  
31 service, if the taxpayer is required to file and remit its taxes on a  
32 monthly basis. The mandatory electronic filing requirement in this  
33 subsection also applies to taxpayers who meet the threshold for filing  
34 and remitting taxes on a monthly basis as established by rule of the  
35 department but for whom the department has authorized a less frequent  
36 reporting frequency, when such authorization became effective on or  
37 after July 26, 2009.

1 (b) The department, for good cause, may waive the electronic filing  
2 requirement in this subsection for any taxpayer. In the discretion of  
3 the department, a waiver under this subsection may be made temporary or  
4 permanent, and may be made on the department's own motion.

5 (c) The department is authorized to (~~accept payment of taxes by~~  
6 ~~electronic funds transfer or other acceptable forms of electronic~~  
7 ~~payment~~) allow electronic filing of returns from taxpayers that are  
8 not subject to the mandatory electronic (~~payment~~) filing requirements  
9 in this subsection.

10 (4)(a)(i) The department, for good cause shown, may extend the time  
11 for making and filing any return, and may grant such reasonable  
12 additional time within which to make and file returns as it may deem  
13 proper, but any permanent extension granting the taxpayer a reporting  
14 date without penalty more than ten days beyond the due date, and any  
15 extension in excess of thirty days must be conditional on deposit with  
16 the department of an amount to be determined by the department which  
17 shall be approximately equal to the estimated tax liability for the  
18 reporting period or periods for which the extension is granted. In the  
19 case of a permanent extension or a temporary extension of more than  
20 thirty days the deposit must be deposited within the state treasury  
21 with other tax funds and a credit recorded to the taxpayer's account  
22 which may be applied to taxpayer's liability upon cancellation of the  
23 permanent extension or upon reporting of the tax liability where an  
24 extension of more than thirty days has been granted.

25 (ii) The department must review the requirement for deposit at  
26 least annually and may require a change in the amount of the deposit  
27 required when it believes that such amount does not approximate the tax  
28 liability for the reporting period or periods for which the extension  
29 is granted.

30 (b) During a state of emergency declared under RCW 43.06.010(12),  
31 the department, on its own motion or at the request of any taxpayer  
32 affected by the emergency, may extend the time for making or filing any  
33 return as the department deems proper. The department may not require  
34 any deposit as a condition for granting an extension under this  
35 subsection (4)(b).

36 (5) The department must keep full and accurate records of all funds  
37 received and disbursed by it. Subject to the provisions of RCW



1 82.32.105 and 82.32.350, the department must apply the payment of the  
2 taxpayer first against penalties and interest, and then upon the tax,  
3 without regard to any direction of the taxpayer.

4 (6) The department may refuse to accept any return that is not  
5 accompanied by a remittance of the tax shown to be due thereon or that  
6 is not filed electronically as required in this section. When such  
7 return is not accepted, the taxpayer is deemed to have failed or  
8 refused to file a return and is subject to the procedures provided in  
9 RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The  
10 above authority to refuse to accept a return may not apply when a  
11 return is timely filed electronically and a timely payment has been  
12 made by electronic funds transfer or other form of electronic payment  
13 as authorized by the department.

14 (7) Except for returns and remittances required to be transmitted  
15 to the department electronically under this section and except as  
16 otherwise provided in this chapter, a return or remittance that is  
17 transmitted to the department by United States mail is deemed filed or  
18 received on the date shown by the post office cancellation mark stamped  
19 upon the envelope containing it. A return or remittance that is  
20 transmitted to the department electronically is deemed filed or  
21 received according to procedures set forth by the department.

22 (8)(a) For purposes of subsections (2) and (3) of this section,  
23 "good cause" means the inability of a taxpayer to comply with the  
24 requirements of subsection (2) or (3) of this section because:

25 (i) The taxpayer does not have the equipment or software necessary  
26 to enable the taxpayer to comply with subsection (2) or (3) of this  
27 section;

28 (ii) The equipment or software necessary to enable the taxpayer to  
29 comply with subsection (2) or (3) of this section is not functioning  
30 properly;

31 (iii) The taxpayer does not have access to the internet using the  
32 taxpayer's own equipment;

33 (iv) The taxpayer does not have a bank account or a credit card;

34 (v) The taxpayer's bank is unable to send or receive electronic  
35 funds transfer transactions; or

36 (vi) Some other circumstance or condition exists that, in the  
37 department's judgment, prevents the taxpayer from complying with the  
38 requirements of subsection (2) or (3) of this section.

1 (b) "Good cause" also includes any circumstance that, in the  
2 department's judgment, supports the efficient or effective  
3 administration of the tax laws of this state, including providing  
4 relief from the requirements of subsection (2) or (3) of this section  
5 to any taxpayer that is voluntarily collecting and remitting this  
6 state's sales or use taxes on sales to Washington customers but has no  
7 legal requirement to be registered with the department.

8 **Sec. 117.** RCW 82.32.520 and 2007 c 54 s 18 and 2007 c 6 s 1001 are  
9 each reenacted and amended to read as follows:

10 (1) Except for the defined telecommunications services listed in  
11 subsection (3) of this section, the sale of telecommunications service  
12 as defined in RCW 82.04.065 sold on a call-by-call basis shall be  
13 sourced to (a) each level of taxing jurisdiction where the call  
14 originates and terminates in that jurisdiction or (b) each level of  
15 taxing jurisdiction where the call either originates or terminates and  
16 in which the service address is also located.

17 (2) Except for the defined telecommunications services listed in  
18 subsection (3) of this section, a sale of telecommunications service as  
19 defined in RCW 82.04.065 sold on a basis other than a call-by-call  
20 basis, is sourced to the customer's place of primary use.

21 (3) The sales of telecommunications service as defined in RCW  
22 82.04.065 that are listed in subsection (3) of this section (~~shall~~)  
23 must be sourced to each level of taxing jurisdiction as follows:

24 (a) A sale of mobile telecommunications services, other than air-  
25 ground radiotelephone service and prepaid calling service, is sourced  
26 to the customer's place of primary use as required by RCW 82.08.066.

27 (b) A sale of postpaid calling service is sourced to the  
28 origination point of the telecommunications signal as first identified  
29 by either (i) the seller's telecommunications system, or (ii)  
30 information received by the seller from its service provider, where the  
31 system used to transport such signals is not that of the seller.

32 (c) A sale of prepaid calling service or a sale of a prepaid  
33 wireless calling service is sourced as follows:

34 (i) When a prepaid calling service or a prepaid wireless calling  
35 service is received by the purchaser at a business location of the  
36 seller, the sale is sourced to that business location;

1 (ii) When a prepaid calling service or a prepaid wireless calling  
2 service is not received by the purchaser at a business location of the  
3 seller, the sale is sourced to the location where receipt by the  
4 purchaser or the purchaser's donee, designated as such by the  
5 purchaser, occurs, including the location indicated by instructions for  
6 delivery to the purchaser or donee, known to the seller;

7 (iii) When (c)(i) and (ii) of this subsection do not apply, the  
8 sale is sourced to the location indicated by an address for the  
9 purchaser that is available from the business records of the seller  
10 that are maintained in the ordinary course of the seller's business  
11 when use of this address does not constitute bad faith;

12 (iv) When (c)(i), (ii), and (iii) of this subsection do not apply,  
13 the sale is sourced to the location indicated by an address for the  
14 purchaser obtained during the consummation of the sale, including the  
15 address of a purchaser's payment instrument, if no other address is  
16 available, when use of this address does not constitute bad faith;

17 (v) When (c)(i), (ii), (iii), and (iv) of this subsection do not  
18 apply, including the circumstance where the seller is without  
19 sufficient information to apply those provisions, ~~((then))~~ the  
20 ~~((location shall be determined by the address from which tangible~~  
21 ~~personal property was shipped, from which the digital good or the~~  
22 ~~computer software delivered electronically was first available for~~  
23 ~~transmission by the seller, or from which the service defined as a~~  
24 ~~retail sale under RCW 82.04.050 was provided, disregarding for these~~  
25 ~~purposes any location that merely provided the digital transfer of the~~  
26 ~~product sold)) sale is sourced as provided in RCW 82.32.730(1)(e);~~

27 (vi) In the case of a sale of prepaid wireless calling service,  
28 (c)(v) of this subsection shall include as an option the location  
29 associated with the mobile telephone number.

30 (d) A sale of a private communication service is sourced as  
31 follows:

32 (i) Service for a separate charge related to a customer channel  
33 termination point is sourced to each level of jurisdiction in which  
34 such customer channel termination point is located.

35 (ii) Service where all customer termination points are located  
36 entirely within one jurisdiction or levels of jurisdiction is sourced  
37 in such jurisdiction in which the customer channel termination points  
38 are located.

1 (iii) Service for segments of a channel between two customer  
2 channel termination points located in different jurisdictions and which  
3 segment of channel are separately charged is sourced fifty percent in  
4 each level of jurisdiction in which the customer channel termination  
5 points are located.

6 (iv) Service for segments of a channel located in more than one  
7 jurisdiction or levels of jurisdiction and which segments are not  
8 separately billed is sourced in each jurisdiction based on the  
9 percentage determined by dividing the number of customer channel  
10 termination points in the jurisdiction by the total number of customer  
11 channel termination points.

12 (4) The definitions in this subsection apply throughout this  
13 chapter.

14 (a) "Air-ground radiotelephone service" means air-ground radio  
15 service, as defined in 47 C.F.R. Sec. 22.99, as amended or renumbered  
16 as of January 1, 2003, in which common carriers are authorized to offer  
17 and provide radio telecommunications service for hire to subscribers in  
18 aircraft.

19 (b) "Call-by-call basis" means any method of charging for  
20 telecommunications services where the price is measured by individual  
21 calls.

22 (c) "Communications channel" means a physical or virtual path of  
23 communications over which signals are transmitted between or among  
24 customer channel termination points.

25 (d) "Customer" means the person or entity that contracts with the  
26 seller of telecommunications services. If the end user of  
27 telecommunications services is not the contracting party, the end user  
28 of the telecommunications service is the customer of the  
29 telecommunications service. "Customer" does not include a reseller of  
30 telecommunications service or for mobile telecommunications service of  
31 a serving carrier under an agreement to serve the customer outside the  
32 home service provider's licensed service area.

33 (e) "Customer channel termination point" means the location where  
34 the customer either inputs or receives the communications.

35 (f) "End user" means the person who uses the telecommunications  
36 service. In the case of an entity, the term end user means the  
37 individual who uses the service on behalf of the entity.

1 (g) "Home service provider" means the same as that term is defined  
2 in RCW 82.04.065.

3 (h) "Mobile telecommunications service" means the same as that term  
4 is defined in RCW 82.04.065.

5 (i) "Place of primary use" means the street address representative  
6 of where the customer's use of the telecommunications service primarily  
7 occurs, which must be the residential street address or the primary  
8 business street address of the customer. In the case of mobile  
9 telecommunications services, "place of primary use" must be within the  
10 licensed service area of the home service provider.

11 (j) "Postpaid calling service" means the telecommunications service  
12 obtained by making a payment on a call-by-call basis either through the  
13 use of a credit card or payment mechanism such as a bank card, travel  
14 card, credit card, or debit card, or by charge made to a telephone  
15 number that is not associated with the origination or termination of  
16 the telecommunications service. A postpaid calling service includes a  
17 telecommunications service, except a prepaid wireless calling service,  
18 that would be a prepaid calling service except it is not exclusively a  
19 telecommunications service.

20 (k) "Prepaid calling service" means the right to access exclusively  
21 telecommunications services, which must be paid for in advance and  
22 which enables the origination of calls using an access number and/or  
23 authorization code, whether manually or electronically dialed, and that  
24 is sold in predetermined units or dollars of which the number declines  
25 with use in a known amount.

26 (l) "Prepaid wireless calling service" means a telecommunications  
27 service that provides the right to use mobile wireless service as well  
28 as other nontelecommunications services, including the download of  
29 digital products delivered electronically, content, and ancillary  
30 services, which must be paid for in advance that is sold in  
31 predetermined units or dollars of which the number declines with use in  
32 a known amount.

33 (m) "Private communication service" means a telecommunications  
34 service that entitles the customer to exclusive or priority use of a  
35 communications channel or group of channels between or among  
36 termination points, regardless of the manner in which such channel or  
37 channels are connected, and includes switching capacity, extension

1 lines, stations, and any other associated services that are provided in  
2 connection with the use of such channel or channels.

3 (n) "Service address" means:

4 (i) The location of the telecommunications equipment to which a  
5 customer's call is charged and from which the call originates or  
6 terminates, regardless of where the call is billed or paid;

7 (ii) If the location in (n)(i) of this subsection is not known, the  
8 origination point of the signal of the telecommunications services  
9 first identified by either the seller's telecommunications system or in  
10 information received by the seller from its service provider, where the  
11 system used to transport such signals is not that of the seller;

12 (iii) If the locations in (n)(i) and (ii) of this subsection are  
13 not known, the location of the customer's place of primary use.

14 **Sec. 118.** RCW 82.36.440 and 2003 c 350 s 5 are each amended to  
15 read as follows:

16 (1) The tax levied in this chapter is in lieu of any excise,  
17 privilege, or occupational tax upon the business of manufacturing,  
18 selling, or distributing motor vehicle fuel, and no city, town, county,  
19 township or other subdivision or municipal corporation of the state  
20 shall levy or collect any excise tax upon or measured by the sale,  
21 receipt, distribution, or use of motor vehicle fuel, except as provided  
22 in chapter 82.80 RCW and RCW 82.47.020.

23 (2) This section does not apply to any tax imposed by the state.

24 **Sec. 119.** RCW 82.38.280 and 2003 c 350 s 6 are each amended to  
25 read as follows:

26 (1) The tax levied in this chapter is in lieu of any excise,  
27 privilege, or occupational tax upon the business of manufacturing,  
28 selling, or distributing special fuel, and no city, town, county,  
29 township or other subdivision or municipal corporation of the state  
30 (~~shall~~) may levy or collect any excise tax upon or measured by the  
31 sale, receipt, distribution, or use of special fuel, except as provided  
32 in chapter 82.80 RCW and RCW 82.47.020.

33 (2) This section does not apply to any tax imposed by the state.

34 **Sec. 120.** RCW 82.62.010 and 2007 c 485 s 1 are each amended to  
35 read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) "Applicant" means a person applying for a tax credit under this  
4 chapter.

5 (2) "Department" means the department of revenue.

6 (3) "Eligible area" means an area as defined in RCW 82.60.020.

7 (4)(a) "Eligible business project" means manufacturing or research  
8 and development activities which are conducted by an applicant in an  
9 eligible area at a specific facility, provided the applicant's average  
10 qualified employment positions at the specific facility will be at  
11 least fifteen percent greater in the four consecutive full calendar  
12 quarters after the calendar quarter during which the first qualified  
13 employment position is filled than the applicant's average qualified  
14 employment positions at the same facility in the four consecutive full  
15 calendar quarters immediately preceding the calendar quarter during  
16 which the first qualified employment position is filled.

17 (b) "Eligible business project" does not include any portion of a  
18 business project undertaken by a light and power business as defined in  
19 RCW 82.16.010(~~(+5)~~) or that portion of a business project creating  
20 qualified full-time employment positions outside an eligible area.

21 (5) "First qualified employment position" means the first qualified  
22 employment position filled for which a credit under this chapter is  
23 sought.

24 (6) "Manufacturing" means the same as defined in RCW 82.04.120.  
25 "Manufacturing" also includes computer programming, the production of  
26 computer software, and other computer-related services, and the  
27 activities performed by research and development laboratories and  
28 commercial testing laboratories.

29 (7) "Person" has the meaning given in RCW 82.04.030.

30 (8)(a)(i) "Qualified employment position" means a permanent full-  
31 time employee employed in the eligible business project during four  
32 consecutive full calendar quarters.

33 (ii) For seasonal employers, "qualified employment position" also  
34 includes the equivalent of a full-time employee in work hours for four  
35 consecutive full calendar quarters.

36 (b) For purposes of this subsection, "full time" means a normal  
37 work week of at least thirty-five hours.

1 (c) Once a permanent, full-time employee has been employed, a  
2 position does not cease to be a qualified employment position solely  
3 due to periods in which the position goes vacant, as long as:

4 (i) The cumulative period of any vacancies in that position is not  
5 more than one hundred twenty days in the four-quarter period; and

6 (ii) During a vacancy, the employer is training or actively  
7 recruiting a replacement permanent, full-time employee for the  
8 position.

9 (9) "Recipient" means a person receiving tax credits under this  
10 chapter.

11 (10) "Research and development" means the development, refinement,  
12 testing, marketing, and commercialization of a product, service, or  
13 process before commercial sales have begun. As used in this  
14 subsection, "commercial sales" excludes sales of prototypes or sales  
15 for market testing if the total gross receipts from such sales of the  
16 product, service, or process do not exceed one million dollars.

17 (11) "Seasonal employee" means an employee of a seasonal employer  
18 who works on a seasonal basis. For the purposes of this subsection and  
19 subsection (12) of this section, "seasonal basis" means a continuous  
20 employment period of less than twelve consecutive months.

21 (12) "Seasonal employer" means a person who regularly hires more  
22 than fifty percent of its employees to work on a seasonal basis.

23 **Sec. 121.** RCW 82.80.120 and 2006 c 311 s 18 are each amended to  
24 read as follows:

25 (1) For purposes of this section:

26 (a) "Distributor" means every person who imports, refines,  
27 manufactures, produces, or compounds motor vehicle fuel and special  
28 fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells  
29 or distributes the fuel into a county;

30 (b) "Person" has the same meaning as in RCW 82.04.030;

31 (c) "District" means a regional transportation investment district  
32 under chapter 36.120 RCW.

33 (2) A regional transportation investment district under chapter  
34 36.120 RCW, subject to the conditions of this section, may levy  
35 additional excise taxes equal to ten percent of the statewide motor  
36 vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor  
37 vehicle fuel as defined in RCW 82.36.010 and on each gallon of special



1 fuel as defined in RCW 82.38.020 sold within the boundaries of the  
2 district. The additional excise tax is subject to the approval of a  
3 majority of the voters within the district boundaries. Vehicles paying  
4 an annual license fee under RCW 82.38.075 are exempt from the  
5 district's fuel excise tax. The additional excise taxes are subject to  
6 the same exceptions and rights of refund as applicable to other motor  
7 vehicle fuel and special fuel excise taxes levied under chapters 82.36  
8 and 82.38 RCW. The proposed tax may not be levied less than one month  
9 from the date the election results are certified. The commencement  
10 date for the levy of any tax under this section will be the first day  
11 of January, April, July, or October.

12 (3) The local option motor vehicle fuel tax on each gallon of motor  
13 vehicle fuel and on each gallon of special fuel is imposed upon the  
14 distributor of the fuel.

15 (4) A taxable event for the purposes of this section occurs upon  
16 the first distribution of the fuel within the boundaries of the  
17 district to a retail outlet, bulk fuel user, or ultimate user of the  
18 fuel.

19 (5) All administrative provisions in chapters 82.01, 82.03, and  
20 82.32 RCW, insofar as they are applicable, apply to local option fuel  
21 taxes imposed under this section.

22 (6) Before the effective date of the imposition of the fuel taxes  
23 under this section, a district (~~shall~~) must contract with the  
24 department of (~~licensing~~) revenue for the administration and  
25 collection of the taxes. The contract must provide that a percentage  
26 amount, not to exceed one percent of the taxes imposed under this  
27 section, will be deposited into the local tax administration account  
28 created in the custody of the state treasurer. The department of  
29 (~~licensing~~) revenue may spend money from this account, upon  
30 appropriation, for the administration of the local taxes imposed under  
31 this section.

32 (7) The state treasurer (~~shall~~) must distribute monthly to the  
33 district levying the tax as part of the regional transportation  
34 investment district plan, after the deductions for payments and  
35 expenditures as provided in RCW 46.68.090(1) (a) and (b).

36 (8) The proceeds of the additional taxes levied by a district in  
37 this section, to be used as a part of a regional transportation  
38 investment district plan, must be used in accordance with chapter

1 36.120 RCW, but only for those areas that are considered "highway  
2 purposes" as that term is construed in Article II, section 40 of the  
3 state Constitution.

4 (9) A district may only levy the tax under this section if the  
5 district is comprised of boundaries identical to the boundaries of a  
6 county or counties. A district may not levy the tax in this section if  
7 a member county is levying the tax in RCW 82.80.010 or 82.80.110.

8 **Sec. 122.** RCW 83.100.040 and 2005 c 516 s 3 are each amended to  
9 read as follows:

10 (1) A tax in an amount computed as provided in this section is  
11 imposed on every transfer of property located in Washington. For the  
12 purposes of this section, any intangible property owned by a resident  
13 is located in Washington.

14 (2)(a) Except as provided in (b) of this subsection, the amount of  
15 tax is the amount provided in the following table:

If Washington Taxable		The amount of Tax Equals		Of Washington
Estate is at least	But Less Than	Initial Tax Amount	Plus Tax Rate %	Taxable Estate Value
\$0	\$1,000,000	\$0	10.00%	\$0
\$1,000,000	\$2,000,000	\$100,000	14.00%	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15.00%	\$2,000,000
\$3,000,000	\$4,000,000	\$390,000	16.00%	\$3,000,000
\$4,000,000	\$6,000,000	\$550,000	17.00%	\$4,000,000
\$6,000,000	\$7,000,000	\$890,000	18.00%	\$6,000,000
\$7,000,000	\$9,000,000	\$1,070,000	18.50%	\$7,000,000
((Above))		\$1,440,000	19.00%	((Above))
\$9,000,000				\$9,000,000

29 (b) If any property in the decedent's estate is located outside of  
30 Washington, the amount of tax is the amount determined in (a) of this  
31 subsection multiplied by a fraction. The numerator of the fraction is  
32 the value of the property located in Washington. The denominator of  
33 the fraction is the value of the decedent's gross estate. Property  
34 qualifying for a deduction under RCW 83.100.046 (~~shall~~) must be  
35 excluded from the numerator and denominator of the fraction.

1 (3) The tax imposed under this section is a stand-alone estate tax  
2 that incorporates only those provisions of the internal revenue code as  
3 amended or renumbered as of January 1, 2005, that do not conflict with  
4 the provisions of this chapter. The tax imposed under this chapter is  
5 independent of any federal estate tax obligation and is not affected by  
6 termination of the federal estate tax.

7 **Sec. 123.** RCW 83.100.046 and 2005 c 514 s 1201 are each amended to  
8 read as follows:

9 (1) For the purposes of determining the Washington taxable estate,  
10 a deduction is allowed from the federal taxable estate for:

11 (a) The value of qualified real property reduced by any amounts  
12 allowable as a deduction in respect of the qualified real property  
13 (~~((and tangible personal property))~~) under (~~((section))~~) 26 U.S.C. Sec.  
14 2053(a)(4) of the federal internal revenue code, if the decedent was at  
15 the time of his or her death a citizen or resident of the United  
16 States.

17 (b) The value of any tangible personal property used by the  
18 decedent or a member of the decedent's family for a qualified use on  
19 the date of the decedent's death, reduced by any amounts allowable as  
20 a deduction in respect of the tangible personal property under  
21 (~~((section))~~) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue  
22 code, if all of the requirements of subsection (10)(f)(i)(A) of this  
23 section are met and the decedent was at the time of his or her death a  
24 citizen or resident of the United States.

25 (c) The value of real property that is not deductible under (a) of  
26 this subsection solely by reason of subsection (10)(f)(i)(B) of this  
27 section, reduced by any amounts allowable as a deduction in respect of  
28 the (~~((qualified))~~) real property (~~((and tangible personal property))~~)  
29 under (~~((section))~~) 26 U.S.C. Sec. 2053(a)(4) of the federal internal  
30 revenue code, if the requirements of subsection (10)(f)(i)(C) of this  
31 section are met with respect to the property and the decedent was at  
32 the time of his or her death a citizen or resident of the United  
33 States.

34 (2) Property (~~((shall))~~) will be considered to have been acquired  
35 from or to have passed from the decedent if:

36 (a) The property is so considered under (~~((section))~~) 26 U.S.C. Sec.  
37 1014(b) of the federal internal revenue code;

1 (b) The property is acquired by any person from the estate; or

2 (c) The property is acquired by any person from a trust, to the  
3 extent the property is includible in the gross estate of the decedent.

4 (3) If the decedent and the decedent's surviving spouse at any time  
5 held qualified real property as community property, the interest of the  
6 surviving spouse in the property (~~shall~~) must be taken into account  
7 under this section to the extent necessary to provide a result under  
8 this section with respect to the property which is consistent with the  
9 result which would have obtained under this section if the property had  
10 not been community property.

11 (4) In the case of any qualified woodland, the value of trees  
12 growing on the woodland may be deducted if otherwise qualified under  
13 this section.

14 (5) If property is qualified real property with respect to a  
15 decedent, hereinafter in this subsection referred to as the "first  
16 decedent," and the property was acquired from or passed from the first  
17 decedent to the surviving spouse of the first decedent, active  
18 management of the farm by the surviving spouse (~~shall~~) must be  
19 treated as material participation by the surviving spouse in the  
20 operation of the farm.

21 (6) Property owned indirectly by the decedent may qualify for a  
22 deduction under this section if owned through an interest in a  
23 corporation, partnership, or trust as the terms corporation,  
24 partnership, or trust are used in (~~section~~) 26 U.S.C. Sec. 2032A(g)  
25 of the federal internal revenue code. In order to qualify for a  
26 deduction under this subsection, the interest, in addition to meeting  
27 the other tests for qualification under this section, must qualify  
28 under (~~section~~) 26 U.S.C. Sec. 6166(b)(1) of the federal internal  
29 revenue code as an interest in a closely held business on the date of  
30 the decedent's death and for sufficient other time, combined with  
31 periods of direct ownership, to equal at least five years of the eight-  
32 year period preceding the death.

33 (7)(a) If, on the date of the decedent's death, the requirements of  
34 subsection (10)(f)(i)(C)(II) of this section with respect to the  
35 decedent for any property are not met, and the decedent (i) was  
36 receiving old age benefits under Title II of the social security act  
37 for a continuous period ending on such date, or (ii) was disabled for  
38 a continuous period ending on this date, then subsection

1 (10)(f)(i)(C)(II) of this section shall be applied with respect to the  
2 property by substituting "the date on which the longer of such  
3 continuous periods began" for "the date of the decedent's death" in  
4 subsection (10)(f)(i)(C) of this section.

5 (b) For the purposes of (a) of this subsection, an individual  
6 (~~shall be~~) is disabled if the individual has a mental or physical  
7 impairment which renders that individual unable to materially  
8 participate in the operation of the farm.

9 (8) Property may be deducted under this section whether or not  
10 special valuation is elected under (~~section~~) 26 U.S.C. Sec. 2032A of  
11 the federal internal revenue code on the federal return. For the  
12 purposes of determining the deduction under this section, the value of  
13 property is its value as used to determine the value of the gross  
14 estate.

15 (9)(a) In the case of any qualified replacement property, any  
16 period during which there was ownership, qualified use, or material  
17 participation with respect to the replaced property by the decedent or  
18 any member of the decedent's family (~~shall~~) must be treated as a  
19 period during which there was ownership, use, or material  
20 participation, as the case may be, with respect to the qualified  
21 replacement property.

22 (b) Subsection (9)(a) of this section (~~shall~~) does not apply to  
23 the extent that the fair market value of the qualified replacement  
24 property, as of the date of its acquisition, exceeds the fair market  
25 value of the replaced property, as of the date of its disposition.

26 (c) For the purposes of this subsection (9), the following  
27 definitions apply:

28 (i)(A) "Qualified replacement property" means any real property:

29 (~~(A)~~) (I) Which is acquired in an exchange which qualifies under  
30 (~~section~~) 26 U.S.C. Sec. 1031 of the federal internal revenue code;  
31 or

32 (~~(B)~~) (II) The acquisition of which results in the nonrecognition  
33 of gain under (~~section~~) 26 U.S.C. Sec. 1033 of the federal internal  
34 revenue code.

35 (B) The term "qualified replacement property" only includes  
36 property which is used for the same qualified use as the replaced  
37 property was being used before the exchange.

38 (ii) "Replaced property" means the property was:

1 (A) Transferred in the exchange which qualifies under (~~section~~)  
2 26 U.S.C. Sec. 1031 of the federal internal revenue code; or  
3 (B) Compulsorily or involuntarily converted within the meaning of  
4 (~~section~~) 26 U.S.C. Sec. 1033 of the federal internal revenue code.  
5 (10) For the purposes of this section, the following definitions  
6 apply:  
7 (a) "Active management" means the making of the management  
8 decisions of a farm, other than the daily operating decisions.  
9 (b) "Farm" includes stock, dairy, poultry, fruit, furbearing  
10 animal, and truck farms; plantations; ranches; nurseries; ranges;  
11 greenhouses or other similar structures used primarily for the raising  
12 of agricultural or horticultural commodities; and orchards and  
13 woodlands.  
14 (c) "Farming purposes" means:  
15 (i) Cultivating the soil or raising or harvesting any agricultural  
16 or horticultural commodity, including the raising, shearing, feeding,  
17 caring for, training, and management of animals on a farm;  
18 (ii) Handling, drying, packing, grading, or storing on a farm any  
19 agricultural or horticultural commodity in its unmanufactured state,  
20 but only if the owner, tenant, or operator of the farm regularly  
21 produces more than one-half of the commodity so treated; and  
22 (iii)(A) The planting, cultivating, caring for, or cutting of  
23 trees; or  
24 (B) The preparation, other than milling, of trees for market.  
25 (d)(i) "Member of the family" means, with respect to any  
26 individual, only:  
27 ~~((+i))~~ (A) An ancestor of the individual;  
28 ~~((+ii))~~ (B) The spouse of the individual;  
29 ~~((+iii))~~ (C) A lineal descendant of the individual, of the  
30 individual's spouse, or of a parent of the individual; or  
31 ~~((+iv))~~ (D) The spouse of any lineal descendant described in  
32 (d)~~((+iii))~~ (i)(C) of this subsection.  
33 (ii) For the purposes of this subsection (10)(d), a legally adopted  
34 child of an individual (~~shall~~) must be treated as the child of such  
35 individual by blood.  
36 (e) "Qualified heir" means, with respect to any property, a member  
37 of the decedent's family who acquired property, or to whom property  
38 passed, from the decedent.

1 (f)(i) "Qualified real property" means real property which was  
2 acquired from or passed from the decedent to a qualified heir of the  
3 decedent and which, on the date of the decedent's death, was being used  
4 for a qualified use by the decedent or a member of the decedent's  
5 family, but only if:

6 (A) Fifty percent or more of the adjusted value of the gross estate  
7 consists of the adjusted value of real or personal property which:

8 (I) On the date of the decedent's death, was being used for a  
9 qualified use by the decedent or a member of the decedent's family; and

10 (II) Was acquired from or passed from the decedent to a qualified  
11 heir of the decedent;

12 (B) Twenty-five percent or more of the adjusted value of the gross  
13 estate consists of the adjusted value of real property which meets the  
14 requirements of (f)(i)(A)(II) and (f)(i)(C) of this subsection; and

15 (C) During the eight-year period ending on the date of the  
16 decedent's death there have been periods aggregating five years or more  
17 during which:

18 (I) The real property was owned by the decedent or a member of the  
19 decedent's family and used for a qualified use by the decedent or a  
20 member of the decedent's family; and

21 (II) There was material participation by the decedent or a member  
22 of the decedent's family in the operation of the farm. For the  
23 purposes of this subsection (f)(i)(C)(II), material participation  
24 (~~shall~~) must be determined in a manner similar to the manner used for  
25 purposes of (~~section~~) 26 U.S.C. Sec. 1402(a)(1) of the federal  
26 internal revenue code.

27 (ii) For the purposes of this subsection, the term "adjusted value"  
28 means:

29 (A) In the case of the gross estate, the value of the gross estate,  
30 determined without regard to any special valuation under (~~section~~) 26  
31 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by any  
32 amounts allowable as a deduction under (~~section~~) 26 U.S.C. Sec.  
33 2053(a)(4) of the federal internal revenue code; or

34 (B) In the case of any real or personal property, the value of the  
35 property for purposes of chapter 11 of the federal internal revenue  
36 code, determined without regard to any special valuation under  
37 (~~section~~) 26 U.S.C. Sec. 2032A of the federal internal revenue code,

1 reduced by any amounts allowable as a deduction in respect of such  
2 property under (~~section~~) 26 U.S.C. Sec. 2053(a)(4) of the federal  
3 internal revenue code.

4 (g) "Qualified use" means the property is used as a farm for  
5 farming purposes. In the case of real property which meets the  
6 requirements of (f)(i)(C) of this subsection, residential buildings and  
7 related improvements on the real property occupied on a regular basis  
8 by the owner or lessee of the real property or by persons employed by  
9 the owner or lessee for the purpose of operating or maintaining the  
10 real property, and roads, buildings, and other structures and  
11 improvements functionally related to the qualified use (~~shall~~) must  
12 be treated as real property devoted to the qualified use. For tangible  
13 personal property eligible for a deduction under subsection (1)(b) of  
14 this section, "qualified use" means the property is used primarily for  
15 farming purposes on a farm.

16 (h) "Qualified woodland" means any real property which:

- 17 (i) Is used in timber operations; and
- 18 (ii) Is an identifiable area of land such as an acre or other area  
19 for which records are normally maintained in conducting timber  
20 operations.

- 21 (i) "Timber operations" means:
  - 22 (i) The planting, cultivating, caring for, or cutting of trees; or
  - 23 (ii) The preparation, other than milling, of trees for market.

24 **Sec. 124.** RCW 83.100.046 and 2009 c 521 s 191 are each amended to  
25 read as follows:

26 (1) For the purposes of determining the Washington taxable estate,  
27 a deduction is allowed from the federal taxable estate for:

28 (a) The value of qualified real property reduced by any amounts  
29 allowable as a deduction in respect of the qualified real property  
30 (~~and tangible personal property~~) under (~~section~~) 26 U.S.C. Sec.  
31 2053(a)(4) of the federal internal revenue code, if the decedent was at  
32 the time of his or her death a citizen or resident of the United  
33 States.

34 (b) The value of any tangible personal property used by the  
35 decedent or a member of the decedent's family for a qualified use on  
36 the date of the decedent's death, reduced by any amounts allowable as  
37 a deduction in respect of the tangible personal property under



1 ((~~section~~)) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue  
2 code, if all of the requirements of subsection (10)(f)(i)(A) of this  
3 section are met and the decedent was at the time of his or her death a  
4 citizen or resident of the United States.

5 (c) The value of real property that is not deductible under (a) of  
6 this subsection solely by reason of subsection (10)(f)(i)(B) of this  
7 section, reduced by any amounts allowable as a deduction in respect of  
8 the ((~~qualified~~)) real property ((~~and tangible personal property~~))  
9 under ((~~section~~)) 26 U.S.C. Sec. 2053(a)(4) of the federal internal  
10 revenue code, if the requirements of subsection (10)(f)(i)(C) of this  
11 section are met with respect to the property and the decedent was at  
12 the time of his or her death a citizen or resident of the United  
13 States.

14 (2) Property ((~~shall~~)) will be considered to have been acquired  
15 from or to have passed from the decedent if:

16 (a) The property is so considered under section 1014(b) of the  
17 Internal Revenue Code;

18 (b) The property is acquired by any person from the estate; or

19 (c) The property is acquired by any person from a trust, to the  
20 extent the property is includible in the gross estate of the decedent.

21 (3) If the decedent and the decedent's surviving spouse at any time  
22 held qualified real property as community property, the interest of the  
23 surviving spouse in the property ((~~shall~~)) must be taken into account  
24 under this section to the extent necessary to provide a result under  
25 this section with respect to the property which is consistent with the  
26 result which would have obtained under this section if the property had  
27 not been community property.

28 (4) In the case of any qualified woodland, the value of trees  
29 growing on the woodland may be deducted if otherwise qualified under  
30 this section.

31 (5) If property is qualified real property with respect to a  
32 decedent, hereinafter in this subsection referred to as the "first  
33 decedent," and the property was acquired from or passed from the first  
34 decedent to the surviving spouse of the first decedent, active  
35 management of the farm by the surviving spouse shall be treated as  
36 material participation by the surviving spouse in the operation of the  
37 farm.

1 (6) Property owned indirectly by the decedent may qualify for a  
2 deduction under this section if owned through an interest in a  
3 corporation, partnership, or trust as the terms corporation,  
4 partnership, or trust are used in (~~section~~) 26 U.S.C. Sec. 2032A(g)  
5 of the federal internal revenue code. In order to qualify for a  
6 deduction under this subsection, the interest, in addition to meeting  
7 the other tests for qualification under this section, must qualify  
8 under (~~section~~) 26 U.S.C. Sec. 6166(b)(1) of the federal internal  
9 revenue code as an interest in a closely held business on the date of  
10 the decedent's death and for sufficient other time, combined with  
11 periods of direct ownership, to equal at least five years of the eight-  
12 year period preceding the death.

13 (7)(a) If, on the date of the decedent's death, the requirements of  
14 subsection (10)(f)(i)(C)(II) of this section with respect to the  
15 decedent for any property are not met, and the decedent (i) was  
16 receiving old age benefits under Title II of the social security act  
17 for a continuous period ending on such date, or (ii) was disabled for  
18 a continuous period ending on this date, then subsection  
19 (10)(f)(i)(C)(II) of this section (~~shall~~) must be applied with  
20 respect to the property by substituting "the date on which the longer  
21 of such continuous periods began" for "the date of the decedent's  
22 death" in subsection (10)(f)(i)(C) of this section.

23 (b) For the purposes of (a) of this subsection, an individual  
24 (~~shall be~~) is disabled if the individual has a mental or physical  
25 impairment which renders that individual unable to materially  
26 participate in the operation of the farm.

27 (8) Property may be deducted under this section whether or not  
28 special valuation is elected under (~~section~~) 26 U.S.C. Sec. 2032A of  
29 the federal internal revenue code on the federal return. For the  
30 purposes of determining the deduction under this section, the value of  
31 property is its value as used to determine the value of the gross  
32 estate.

33 (9)(a) In the case of any qualified replacement property, any  
34 period during which there was ownership, qualified use, or material  
35 participation with respect to the replaced property by the decedent or  
36 any member of the decedent's family (~~shall~~) must be treated as a  
37 period during which there was ownership, use, or material

1 participation, as the case may be, with respect to the qualified  
2 replacement property.

3 (b) Subsection (9)(a) of this section (~~shall~~) does not apply to  
4 the extent that the fair market value of the qualified replacement  
5 property, as of the date of its acquisition, exceeds the fair market  
6 value of the replaced property, as of the date of its disposition.

7 (c) For the purposes of this subsection (9), the following  
8 definitions apply:

9 (i)(A) "Qualified replacement property" means any real property:  
10 (~~(A)~~) (I) Which is acquired in an exchange which qualifies under  
11 (~~section~~) 26 U.S.C. Sec. 1031 of the federal internal revenue code;  
12 or

13 (~~(B)~~) (II) The acquisition of which results in the nonrecognition  
14 of gain under (~~section~~) 26 U.S.C. Sec. 1033 of the federal internal  
15 revenue code.

16 (B) The term "qualified replacement property" only includes  
17 property which is used for the same qualified use as the replaced  
18 property was being used before the exchange.

19 (ii) "Replaced property" means the property was:  
20 (A) Transferred in the exchange which qualifies under (~~section~~)  
21 26 U.S.C. Sec. 1031 of the federal internal revenue code; or

22 (B) Compulsorily or involuntarily converted within the meaning of  
23 (~~section~~) 26 U.S.C. Sec. 1033 of the federal internal revenue code.

24 (10) For the purposes of this section, the following definitions  
25 apply:

26 (a) "Active management" means the making of the management  
27 decisions of a farm, other than the daily operating decisions.

28 (b) "Farm" includes stock, dairy, poultry, fruit, furbearing  
29 animal, and truck farms; plantations; ranches; nurseries; ranges;  
30 greenhouses or other similar structures used primarily for the raising  
31 of agricultural or horticultural commodities; and orchards and  
32 woodlands.

33 (c) "Farming purposes" means:

34 (i) Cultivating the soil or raising or harvesting any agricultural  
35 or horticultural commodity, including the raising, shearing, feeding,  
36 caring for, training, and management of animals on a farm;

37 (ii) Handling, drying, packing, grading, or storing on a farm any

1 agricultural or horticultural commodity in its unmanufactured state,  
2 but only if the owner, tenant, or operator of the farm regularly  
3 produces more than one-half of the commodity so treated; and  
4 (iii)(A) The planting, cultivating, caring for, or cutting of  
5 trees; or  
6 (B) The preparation, other than milling, of trees for market.  
7 (d)(i) "Member of the family" means, with respect to any  
8 individual, only:  
9 ((+i)) (A) An ancestor of the individual;  
10 ((+ii)) (B) The spouse or state registered domestic partner of the  
11 individual;  
12 ((+iii)) (C) A lineal descendant of the individual, of the  
13 individual's spouse or state registered domestic partner, or of a  
14 parent of the individual; or  
15 ((+iv)) (D) The spouse or state registered domestic partner of any  
16 lineal descendant described in (d)((+iii)) (1)(C) of this subsection.  
17 (ii) For the purposes of this subsection (10)(d), a legally adopted  
18 child of an individual (~~shall~~) must be treated as the child of such  
19 individual by blood.  
20 (e) "Qualified heir" means, with respect to any property, a member  
21 of the decedent's family who acquired property, or to whom property  
22 passed, from the decedent.  
23 (f)(i) "Qualified real property" means real property which was  
24 acquired from or passed from the decedent to a qualified heir of the  
25 decedent and which, on the date of the decedent's death, was being used  
26 for a qualified use by the decedent or a member of the decedent's  
27 family, but only if:  
28 (A) Fifty percent or more of the adjusted value of the gross estate  
29 consists of the adjusted value of real or personal property which:  
30 (I) On the date of the decedent's death, was being used for a  
31 qualified use by the decedent or a member of the decedent's family; and  
32 (II) Was acquired from or passed from the decedent to a qualified  
33 heir of the decedent;  
34 (B) Twenty-five percent or more of the adjusted value of the gross  
35 estate consists of the adjusted value of real property which meets the  
36 requirements of (f)(i)(A)(II) and (f)(i)(C) of this subsection; and  
37 (C) During the eight-year period ending on the date of the

1 decedent's death there have been periods aggregating five years or more  
2 during which:

3 (I) The real property was owned by the decedent or a member of the  
4 decedent's family and used for a qualified use by the decedent or a  
5 member of the decedent's family; and

6 (II) There was material participation by the decedent or a member  
7 of the decedent's family in the operation of the farm. For the  
8 purposes of this subsection (f)(i)(C)(II), material participation  
9 (~~shall~~) must be determined in a manner similar to the manner used for  
10 purposes of (~~section~~) 26 U.S.C. Sec. 1402(a)(1) of the federal  
11 internal revenue code.

12 (ii) For the purposes of this subsection, the term "adjusted value"  
13 means:

14 (A) In the case of the gross estate, the value of the gross estate,  
15 determined without regard to any special valuation under (~~section~~) 26  
16 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by any  
17 amounts allowable as a deduction under (~~section~~) 26 U.S.C. Sec.  
18 2053(a)(4) of the federal internal revenue code; or

19 (B) In the case of any real or personal property, the value of the  
20 property for purposes of chapter 11 of the federal internal revenue  
21 code, determined without regard to any special valuation under  
22 (~~section~~) 26 U.S.C. Sec. 2032A of the federal internal revenue code,  
23 reduced by any amounts allowable as a deduction in respect of such  
24 property under (~~section~~) 26 U.S.C. Sec. 2053(a)(4) of the federal  
25 internal revenue code.

26 (g) "Qualified use" means the property is used as a farm for  
27 farming purposes. In the case of real property which meets the  
28 requirements of (f)(i)(C) of this subsection, residential buildings and  
29 related improvements on the real property occupied on a regular basis  
30 by the owner or lessee of the real property or by persons employed by  
31 the owner or lessee for the purpose of operating or maintaining the  
32 real property, and roads, buildings, and other structures and  
33 improvements functionally related to the qualified use (~~shall~~) must  
34 be treated as real property devoted to the qualified use. For tangible  
35 personal property eligible for a deduction under subsection (1)(b) of  
36 this section, "qualified use" means the property is used primarily for  
37 farming purposes on a farm.

38 (h) "Qualified woodland" means any real property which:

- 1 (i) Is used in timber operations; and
- 2 (ii) Is an identifiable area of land such as an acre or other area
- 3 for which records are normally maintained in conducting timber
- 4 operations.
- 5 (i) "Timber operations" means:
- 6 (i) The planting, cultivating, caring for, or cutting of trees; or
- 7 (ii) The preparation, other than milling, of trees for market.

8 **Sec. 125.** RCW 82.04.290 and 2008 c 81 s 6 are each amended to read  
9 as follows:

10 (1) Upon every person engaging within this state in the business of  
11 providing international investment management services, as to such  
12 persons, the amount of tax with respect to such business (~~shall be~~)  
13 is equal to the gross income or gross proceeds of sales of the business  
14 multiplied by a rate of 0.275 percent.

15 (2)(a) Upon every person engaging within this state in any business  
16 activity other than or in addition to an activity taxed explicitly  
17 under another section in this chapter or subsection (1) or (3) of this  
18 section; as to such persons the amount of tax on account of such  
19 activities (~~shall be~~) is equal to the gross income of the business  
20 multiplied by the rate of 1.5 percent.

21 (b) This subsection (2) includes, among others, and without  
22 limiting the scope hereof (whether or not title to materials used in  
23 the performance of such business passes to another by accession,  
24 confusion or other than by outright sale), persons engaged in the  
25 business of rendering any type of service which does not constitute a  
26 "sale at retail" or a "sale at wholesale." The value of advertising,  
27 demonstration, and promotional supplies and materials furnished to an  
28 agent by his principal or supplier to be used for informational,  
29 educational and promotional purposes (~~shall~~) may not be considered a  
30 part of the agent's remuneration or commission and (~~shall~~) is not  
31 (~~be~~) subject to taxation under this section.

32 (3)(a) Until July 1, 2024, upon every person engaging within this  
33 state in the business of performing aerospace product development for  
34 others, as to such persons, the amount of tax with respect to such  
35 business (~~shall be~~) is equal to the gross income of the business  
36 multiplied by a rate of 0.9 percent.

1 (b) "Aerospace product development" has the meaning as provided in  
2 RCW 82.04.4461.

3 **PART II**  
4 **PROPERTY TAX**

5 **Sec. 201.** RCW 29A.36.210 and 2004 c 80 s 2 are each amended to  
6 read as follows:

7 (1) The ballot proposition authorizing a taxing district to impose  
8 the regular property tax levies authorized in RCW 36.68.525, 36.69.145,  
9 67.38.130, 84.52.069, or 84.52.135 (~~shall~~) must contain in substance  
10 the following:

11 "~~shall~~) Will the . . . . . (insert the name of the taxing  
12 district) be authorized to impose regular property tax levies of  
13 . . . . . (insert the maximum rate) or less per thousand dollars of  
14 assessed valuation for each of . . . . . (insert the maximum number  
15 of years allowable) consecutive years?

- 16 Yes . . . . .   
17 No . . . . .

18 Each voter (~~shall~~) may indicate either "Yes" or "No" on his or  
19 her ballot in accordance with the procedures established under this  
20 title.

21 (2) The ballot proposition authorizing a taxing district to impose  
22 a permanent regular tax levy under RCW 84.52.069 (~~shall~~) must contain  
23 in substance the following:

24 "~~shall~~) Will the . . . . . (insert the name of the taxing  
25 district) be authorized to impose a PERMANENT regular property levy of  
26 . . . . . (insert the maximum rate) or less per thousand dollars of  
27 assessed valuation?

- 28 Yes . . . . .   
29 No . . . . .

30 **Sec. 202.** RCW 36.68.525 and 1994 c 156 s 5 are each amended to  
31 read as follows:

32 A park and recreation service area may impose regular property tax  
33 levies in an amount equal to sixty cents or less per thousand dollars  
34 of assessed value of property in the service area in each year for six

1 consecutive years when specifically authorized so to do by a majority  
2 of at least three-fifths of the voters thereof approving a proposition  
3 authorizing the levies submitted not more than twelve months prior to  
4 the date on which the proposed initial levy is to be made and not  
5 oftener than twice in such twelve month period, either at a special  
6 election or at the regular election of the service area, at which  
7 election the number of voters voting "yes" on the proposition (~~shall~~)  
8 must constitute three-fifths of a number equal to forty percent of the  
9 number of voters voting in the service area at the last preceding  
10 general election when the number of voters voting on the proposition  
11 does not exceed forty percent of the number of voters voting in such  
12 taxing district in the last preceding general election; or by a  
13 majority of at least three-fifths of the voters thereof voting on the  
14 proposition if the number of voters voting on the proposition exceeds  
15 forty per centum of the number of voters voting in such taxing district  
16 in the last preceding general election. A proposition authorizing such  
17 tax levies (~~shall~~) may not be submitted by a park and recreation  
18 service area more than twice in any twelve-month period. Ballot  
19 propositions (~~shall~~) must conform with RCW (~~29.30.111~~) 29A.36.210.  
20 If a park and recreation service area is levying property taxes, which  
21 in combination with property taxes levied by other taxing districts  
22 result in taxes in excess of the (~~nine-dollar-and-fifteen-cents-per~~  
23 ~~thousand-dollars-of-assessed-valuation~~) limitation provided for in RCW  
24 84.52.043(2), the park and recreation service area property tax levy  
25 (~~shall~~) must be reduced or eliminated (~~before-the-property-tax~~  
26 ~~levies-of-other-taxing-districts-are-reduced~~) as provided in RCW  
27 84.52.010.

28 **Sec. 203.** RCW 36.69.145 and 1994 c 156 s 3 are each amended to  
29 read as follows:

30 (1) A park and recreation district may impose regular property tax  
31 levies in an amount equal to sixty cents or less per thousand dollars  
32 of assessed value of property in the district in each year for six  
33 consecutive years when specifically authorized so to do by a majority  
34 of at least three-fifths of the voters thereof approving a proposition  
35 authorizing the levies submitted at a special election or at the  
36 regular election of the district, at which election the number of  
37 voters voting "yes" on the proposition (~~shall~~) must constitute three-



1 fifths of a number equal to forty per centum of the number of voters  
2 voting in such district at the last preceding general election when the  
3 number of voters voting on the proposition does not exceed forty per  
4 centum of the number of voters voting in such taxing district in the  
5 last preceding general election; or by a majority of at least three-  
6 fifths of the voters thereof voting on the proposition if the number of  
7 voters voting on the proposition exceeds forty per centum of the number  
8 of voters voting in such taxing district in the last preceding general  
9 election. A proposition authorizing the tax levies (~~((shall))~~) may not  
10 be submitted by a park and recreation district more than twice in any  
11 twelve-month period. Ballot propositions (~~((shall))~~) must conform with  
12 RCW (~~((29.30.111))~~) 29A.36.210. In the event a park and recreation  
13 district is levying property taxes, which in combination with property  
14 taxes levied by other taxing districts subject to the one percent  
15 limitation provided for in Article 7, section 2, of our state  
16 Constitution result in taxes in excess of the limitation provided for  
17 in RCW 84.52.043(2), the park and recreation district property tax levy  
18 (~~((shall))~~) must be reduced or eliminated (~~((before the property tax  
19 levies of other taxing districts are reduced))~~) as provided in RCW  
20 84.52.010.

21 (2) The limitation in RCW 84.55.010 (~~((shall))~~) does not apply to the  
22 first levy imposed under this section following the approval of the  
23 levies by the voters under subsection (1) of this section.

24 **Sec. 204.** RCW 84.34.020 and 2009 c 513 s 1 and 2009 c 255 s 1 are  
25 each reenacted and amended to read as follows:

26 As used in this chapter, unless a different meaning is required by  
27 the context:

28 (1) "Open space land" means (a) any land area so designated by an  
29 official comprehensive land use plan adopted by any city or county and  
30 zoned accordingly, or (b) any land area, the preservation of which in  
31 its present use would (i) conserve and enhance natural or scenic  
32 resources, or (ii) protect streams or water supply, or (iii) promote  
33 conservation of soils, wetlands, beaches or tidal marshes, or (iv)  
34 enhance the value to the public of abutting or neighboring parks,  
35 forests, wildlife preserves, nature reservations or sanctuaries or  
36 other open space, or (v) enhance recreation opportunities, or (vi)  
37 preserve historic sites, or (vii) preserve visual quality along

1 highway, road, and street corridors or scenic vistas, or (viii) retain  
2 in its natural state tracts of land not less than one acre situated in  
3 an urban area and open to public use on such conditions as may be  
4 reasonably required by the legislative body granting the open space  
5 classification, or (c) any land meeting the definition of farm and  
6 agricultural conservation land under subsection (8) of this section.  
7 As a condition of granting open space classification, the legislative  
8 body may not require public access on land classified under (b)(iii) of  
9 this subsection for the purpose of promoting conservation of wetlands.

10 (2) "Farm and agricultural land" means:

11 (a) Any parcel of land that is twenty or more acres or multiple  
12 parcels of land that are contiguous and total twenty or more acres:

13 (i) Devoted primarily to the production of livestock or  
14 agricultural commodities for commercial purposes;

15 (ii) Enrolled in the federal conservation reserve program or its  
16 successor administered by the United States department of agriculture;  
17 or

18 (iii) Other similar commercial activities as may be established by  
19 rule;

20 (b)(i) Any parcel of land that is five acres or more but less than  
21 twenty acres devoted primarily to agricultural uses, which has produced  
22 a gross income from agricultural uses equivalent to, as of January 1,  
23 1993:

24 (A) One hundred dollars or more per acre per year for three of the  
25 five calendar years preceding the date of application for  
26 classification under this chapter for all parcels of land that are  
27 classified under this subsection or all parcels of land for which an  
28 application for classification under this subsection is made with the  
29 granting authority prior to January 1, 1993; and

30 (B) On or after January 1, 1993, two hundred dollars or more per  
31 acre per year for three of the five calendar years preceding the date  
32 of application for classification under this chapter;

33 (ii) For the purposes of (b)(i) of this subsection, "gross income  
34 from agricultural uses" includes, but is not limited to, the wholesale  
35 value of agricultural products donated to nonprofit food banks or  
36 feeding programs;

37 (c) Any parcel of land of less than five acres devoted primarily to

1 agricultural uses which has produced a gross income as of January 1,  
2 1993, of:

3 (i) One thousand dollars or more per year for three of the five  
4 calendar years preceding the date of application for classification  
5 under this chapter for all parcels of land that are classified under  
6 this subsection or all parcels of land for which an application for  
7 classification under this subsection is made with the granting  
8 authority prior to January 1, 1993; and

9 (ii) On or after January 1, 1993, fifteen hundred dollars or more  
10 per year for three of the five calendar years preceding the date of  
11 application for classification under this chapter. Parcels of land  
12 described in (b)(i)(A) and (c)(i) of this subsection (~~shall~~) will,  
13 upon any transfer of the property excluding a transfer to a surviving  
14 spouse or surviving state registered domestic partner, be subject to  
15 the limits of (b)(i)(B) and (c)(ii) of this subsection;

16 (d) Any parcel of land that is five acres or more but less than  
17 twenty acres devoted primarily to agricultural uses, which meet one of  
18 the following criteria:

19 (i) Has produced a gross income from agricultural uses equivalent  
20 to two hundred dollars or more per acre per year for three of the five  
21 calendar years preceding the date of application for classification  
22 under this chapter;

23 (ii) Has standing crops with an expectation of harvest within seven  
24 years, except as provided in (d)(iii) of this subsection, and a  
25 demonstrable investment in the production of those crops equivalent to  
26 one hundred dollars or more per acre in the current or previous  
27 calendar year. For the purposes of this subsection (2)(d)(ii),  
28 "standing crop" means Christmas trees, vineyards, fruit trees, or other  
29 perennial crops that: (A) Are planted using agricultural methods  
30 normally used in the commercial production of that particular crop; and  
31 (B) typically do not produce harvestable quantities in the initial  
32 years after planting; or

33 (iii) Has a standing crop of short rotation hardwoods with an  
34 expectation of harvest within fifteen years and a demonstrable  
35 investment in the production of those crops equivalent to one hundred  
36 dollars or more per acre in the current or previous calendar year;

37 (e) Any lands including incidental uses as are compatible with  
38 agricultural purposes, including wetlands preservation, provided such

1 incidental use does not exceed twenty percent of the classified land  
2 and the land on which appurtenances necessary to the production,  
3 preparation, or sale of the agricultural products exist in conjunction  
4 with the lands producing such products. Agricultural lands shall also  
5 include any parcel of land of one to five acres, which is not  
6 contiguous, but which otherwise constitutes an integral part of farming  
7 operations being conducted on land qualifying under this section as  
8 "farm and agricultural lands";

9 (f) The land on which housing for employees and the principal place  
10 of residence of the farm operator or owner of land classified pursuant  
11 to (a) of this subsection is sited if: The housing or residence is on  
12 or contiguous to the classified parcel; and the use of the housing or  
13 the residence is integral to the use of the classified land for  
14 agricultural purposes; or

15 (g) Any land that is used primarily for equestrian related  
16 activities for which a charge is made, including, but not limited to,  
17 stabling, training, riding, clinics, schooling, shows, or grazing for  
18 feed and that otherwise meet the requirements of (a), (b), or (c) of  
19 this subsection.

20 (3) "Timber land" means any parcel of land that is five or more  
21 acres or multiple parcels of land that are contiguous and total five or  
22 more acres which is or are devoted primarily to the growth and harvest  
23 of timber for commercial purposes. Timber land means the land only and  
24 does not include a residential homesite. The term includes land used  
25 for incidental uses that are compatible with the growing and harvesting  
26 of timber but no more than ten percent of the land may be used for such  
27 incidental uses. It also includes the land on which appurtenances  
28 necessary for the production, preparation, or sale of the timber  
29 products exist in conjunction with land producing these products.

30 (4) "Current" or "currently" means as of the date on which property  
31 is to be listed and valued by the assessor.

32 (5) "Owner" means the party or parties having the fee interest in  
33 land, except that where land is subject to real estate contract "owner"  
34 (~~shall~~) means the contract vendee.

35 (6) "Contiguous" means land adjoining and touching other property  
36 held by the same ownership. Land divided by a public road, but  
37 otherwise an integral part of a farming operation, (~~shall be~~) is  
38 considered contiguous.

1 (7) "Granting authority" means the appropriate agency or official  
2 who acts on an application for classification of land pursuant to this  
3 chapter.

4 (8) "Farm and agricultural conservation land" means either:

5 (a) Land that was previously classified under subsection (2) of  
6 this section, that no longer meets the criteria of subsection (2) of  
7 this section, and that is reclassified under subsection (1) of this  
8 section; or

9 (b) Land that is traditional farmland that is not classified under  
10 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a  
11 use inconsistent with agricultural uses, and that has a high potential  
12 for returning to commercial agriculture.

13 **Sec. 205.** RCW 84.36.381 and 2008 c 6 s 706 are each amended to  
14 read as follows:

15 A person (~~shall be~~) is exempt from any legal obligation to pay  
16 all or a portion of the amount of excess and regular real property  
17 taxes due and payable in the year following the year in which a claim  
18 is filed, and thereafter, in accordance with the following:

19 (1) The property taxes must have been imposed upon a residence  
20 which was occupied by the person claiming the exemption as a principal  
21 place of residence as of the time of filing(~~(:—PROVIDED, That)~~).  
22 However, any person who sells, transfers, or is displaced from his or  
23 her residence may transfer his or her exemption status to a replacement  
24 residence, but no claimant (~~shall~~) may receive an exemption on more  
25 than one residence in any year(~~(:—PROVIDED FURTHER, That)~~). Moreover,  
26 confinement of the person to a hospital, nursing home, boarding home,  
27 or adult family home (~~shall~~) does not disqualify the claim of  
28 exemption if:

29 (a) The residence is temporarily unoccupied;

30 (b) The residence is occupied by a spouse or a domestic partner  
31 and/or a person financially dependent on the claimant for support; or

32 (c) The residence is rented for the purpose of paying nursing home,  
33 hospital, boarding home, or adult family home costs;

34 (2) The person claiming the exemption must have owned, at the time  
35 of filing, in fee, as a life estate, or by contract purchase, the  
36 residence on which the property taxes have been imposed or if the  
37 person claiming the exemption lives in a cooperative housing

1 association, corporation, or partnership, such person must own a share  
2 therein representing the unit or portion of the structure in which he  
3 or she resides. For purposes of this subsection, a residence owned by  
4 a marital community or state registered domestic partnership or owned  
5 by cotenants (~~shall be~~) is deemed to be owned by each spouse or each  
6 domestic partner or each cotenant, and any lease for life (~~shall be~~)  
7 is deemed a life estate;

8 (3) The person claiming the exemption must be (a) sixty-one years  
9 of age or older on December 31st of the year in which the exemption  
10 claim is filed, or must have been, at the time of filing, retired from  
11 regular gainful employment by reason of disability, or (b) a veteran of  
12 the armed forces of the United States with one hundred percent service-  
13 connected disability as provided in 42 U.S.C. Sec. 423 (d)(1)(A) as  
14 amended prior to January 1, 2005, or such subsequent date as the  
15 department may provide by rule consistent with the purpose of this  
16 section. However, any surviving spouse or surviving domestic partner  
17 of a person who was receiving an exemption at the time of the person's  
18 death (~~shall~~) will qualify if the surviving spouse or surviving  
19 domestic partner is fifty-seven years of age or older and otherwise  
20 meets the requirements of this section;

21 (4) The amount that the person (~~shall be~~) is exempt from an  
22 obligation to pay (~~shall be~~) is calculated on the basis of combined  
23 disposable income, as defined in RCW 84.36.383. If the person claiming  
24 the exemption was retired for two months or more of the assessment  
25 year, the combined disposable income of such person (~~shall~~) must be  
26 calculated by multiplying the average monthly combined disposable  
27 income of such person during the months such person was retired by  
28 twelve. If the income of the person claiming exemption is reduced for  
29 two or more months of the assessment year by reason of the death of the  
30 person's spouse or the person's domestic partner, or when other  
31 substantial changes occur in disposable income that are likely to  
32 continue for an indefinite period of time, the combined disposable  
33 income of such person (~~shall~~) must be calculated by multiplying the  
34 average monthly combined disposable income of such person after such  
35 occurrences by twelve. If it is necessary to estimate income to comply  
36 with this subsection, the assessor may require confirming documentation  
37 of such income prior to May 31 of the year following application;

1 (5)(a) A person who otherwise qualifies under this section and has  
2 a combined disposable income of thirty-five thousand dollars or less  
3 (~~shall be~~) is exempt from all excess property taxes; and

4 (b)(i) A person who otherwise qualifies under this section and has  
5 a combined disposable income of thirty thousand dollars or less but  
6 greater than twenty-five thousand dollars (~~shall be~~) is exempt from  
7 all regular property taxes on the greater of fifty thousand dollars or  
8 thirty-five percent of the valuation of his or her residence, but not  
9 to exceed seventy thousand dollars of the valuation of his or her  
10 residence; or

11 (ii) A person who otherwise qualifies under this section and has a  
12 combined disposable income of twenty-five thousand dollars or less  
13 (~~shall be~~) is exempt from all regular property taxes on the greater  
14 of sixty thousand dollars or sixty percent of the valuation of his or  
15 her residence;

16 (6)(a) For a person who otherwise qualifies under this section and  
17 has a combined disposable income of thirty-five thousand dollars or  
18 less, the valuation of the residence (~~shall be~~) is the assessed value  
19 of the residence on the later of January 1, 1995, or January 1st of the  
20 assessment year the person first qualifies under this section. If the  
21 person subsequently fails to qualify under this section only for one  
22 year because of high income, this same valuation (~~shall~~) must be used  
23 upon requalification. If the person fails to qualify for more than one  
24 year in succession because of high income or fails to qualify for any  
25 other reason, the valuation upon requalification (~~shall be~~) is the  
26 assessed value on January 1st of the assessment year in which the  
27 person requalifies. If the person transfers the exemption under this  
28 section to a different residence, the valuation of the different  
29 residence (~~shall be~~) is the assessed value of the different residence  
30 on January 1st of the assessment year in which the person transfers the  
31 exemption.

32 (b) In no event may the valuation under this subsection be greater  
33 than the true and fair value of the residence on January 1st of the  
34 assessment year.

35 (c) This subsection does not apply to subsequent improvements to  
36 the property in the year in which the improvements are made.  
37 Subsequent improvements to the property (~~shall~~) must be added to the

1 value otherwise determined under this subsection at their true and fair  
2 value in the year in which they are made.

3 **Sec. 206.** RCW 84.36.383 and 2008 c 182 s 1 and 2008 c 6 s 709 are  
4 each reenacted and amended to read as follows:

5 As used in RCW 84.36.381 through 84.36.389, except where the  
6 context clearly indicates a different meaning:

7 (1) The term "residence" means a single family dwelling unit  
8 whether such unit be separate or part of a multiunit dwelling,  
9 including the land on which such dwelling stands not to exceed one  
10 acre, except that a residence includes any additional property up to a  
11 total of five acres that comprises the residential parcel if this  
12 larger parcel size is required under land use regulations. The term  
13 (~~shall~~) also includes a share ownership in a cooperative housing  
14 association, corporation, or partnership if the person claiming  
15 exemption can establish that his or her share represents the specific  
16 unit or portion of such structure in which he or she resides. The term  
17 (~~shall~~) also includes a single family dwelling situated upon lands  
18 the fee of which is vested in the United States or any instrumentality  
19 thereof including an Indian tribe or in the state of Washington, and  
20 notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a  
21 residence (~~shall be~~) is deemed real property.

22 (2) The term "real property" (~~shall~~) also includes a mobile home  
23 which has substantially lost its identity as a mobile unit by virtue of  
24 its being fixed in location upon land owned or leased by the owner of  
25 the mobile home and placed on a foundation (posts or blocks) with fixed  
26 pipe, connections with sewer, water, or other utilities. A mobile home  
27 located on land leased by the owner of the mobile home is subject, for  
28 tax billing, payment, and collection purposes, only to the personal  
29 property provisions of chapter 84.56 RCW and RCW 84.60.040.

30 (3) "Department" means the state department of revenue.

31 (4) "Combined disposable income" means the disposable income of the  
32 person claiming the exemption, plus the disposable income of his or her  
33 spouse or domestic partner, and the disposable income of each cotenant  
34 occupying the residence for the assessment year, less amounts paid by  
35 the person claiming the exemption or his or her spouse or domestic  
36 partner during the assessment year for:



1 (a) Drugs supplied by prescription of a medical practitioner  
2 authorized by the laws of this state or another jurisdiction to issue  
3 prescriptions;

4 (b) The treatment or care of either person received in the home or  
5 in a nursing home, boarding home, or adult family home; and

6 (c) Health care insurance premiums for medicare under Title XVIII  
7 of the social security act.

8 (5) "Disposable income" means adjusted gross income as defined in  
9 the federal internal revenue code, as amended prior to January 1, 1989,  
10 or such subsequent date as the director may provide by rule consistent  
11 with the purpose of this section, plus all of the following items to  
12 the extent they are not included in or have been deducted from adjusted  
13 gross income:

14 (a) Capital gains, other than gain excluded from income under  
15 section 121 of the federal internal revenue code to the extent it is  
16 reinvested in a new principal residence;

17 (b) Amounts deducted for loss;

18 (c) Amounts deducted for depreciation;

19 (d) Pension and annuity receipts;

20 (e) Military pay and benefits other than attendant-care and  
21 medical-aid payments;

22 (f) Veterans benefits, other than:

23 (i) Attendant-care payments;

24 (ii) Medical-aid payments;

25 (iii) Disability compensation, as defined in Title 38, part 3,  
26 section 3.4 of the code of federal regulations, as of January 1, 2008;  
27 and

28 (iv) Dependency and indemnity compensation, as defined in Title 38,  
29 part 3, section 3.5 of the code of federal regulations, as of January  
30 1, 2008;

31 (g) Federal social security act and railroad retirement benefits;

32 (h) Dividend receipts; and

33 (i) Interest received on state and municipal bonds.

34 (6) "Cotenant" means a person who resides with the person claiming  
35 the exemption and who has an ownership interest in the residence.

36 (7) "Disability" has the same meaning as provided in 42 U.S.C. Sec.  
37 423(d)(1)(A) as amended prior to January 1, ((2004)) 2005, or such

1 subsequent date as the ((director)) department may provide by rule  
2 consistent with the purpose of this section.

3 **Sec. 207.** RCW 84.37.030 and 2007 sp.s. c 2 s 2 are each amended to  
4 read as follows:

5 A claimant may defer payment of fifty percent of special  
6 assessments or real property taxes, or both, listed on the annual tax  
7 statement in any year in which all of the following conditions are met:

8 (1) The special assessments or property taxes must be imposed upon  
9 a residence that was occupied by the claimant as a principal place of  
10 residence as of January 1st of the year in which the assessments and  
11 taxes are due, subject to the exceptions allowed under RCW  
12 84.36.381(1);

13 (2) The claimant must have combined disposable income, as defined  
14 in RCW 84.36.383, of fifty-seven thousand dollars or less in the  
15 calendar year preceding the filing of the declaration;

16 (3) The claimant must have paid one-half of the total amount of  
17 special assessments and property taxes listed on the annual tax  
18 statement for the year in which the deferral claim is made;

19 (4) A deferral is not allowed for special assessments ((or))  
20 property taxes, or both, levied for collection in the first five  
21 calendar years in which the person owns the residence;

22 (5) The claimant who defers payment of special assessments or real  
23 property taxes, or both, listed on the annual tax statement under this  
24 section must also meet the conditions of RCW 84.38.030 (4) and (5);

25 (6) The total amount deferred by a claimant under this chapter must  
26 not exceed forty percent of the amount of the claimant's equity value  
27 in the claimant's residence; and

28 (7) The claimant may not defer taxes under both this chapter and  
29 chapter 84.38 RCW((~~and~~

30 ~~(8) In the case of deferred special assessments, the claimant must~~  
31 ~~have opted for payment of the assessments on the installment method if~~  
32 ~~this method was available)) in the same tax year.~~

33 **Sec. 208.** RCW 84.37.902 and 2007 sp.s. c 2 s 13 are each amended  
34 to read as follows:

35 (1) ((~~During calendar year 2011, the joint legislative audit and~~  
36 ~~review committee shall review the property tax deferral program under~~

1 ~~chapter 84.37 RCW.~~) Pursuant to chapter 43.136 RCW, the citizen  
2 commission for performance measurement of tax preferences must schedule  
3 the property tax deferral program under this chapter for a tax  
4 preference review by the joint legislative audit and review committee  
5 in 2011. The department of revenue and county assessors (~~shall~~) must  
6 provide the committee with any data within its purview that the  
7 committee considers necessary to conduct the review. (~~By December 1,~~  
8 ~~2011, the joint legislative audit and review committee shall report to~~  
9 ~~the legislature the results of its review.~~)

10 (2) (~~As part of its review under subsection (1) of this section~~)  
11 In addition to the factors in RCW 43.136.055(1), the committee  
12 (~~shall~~) must also study and report on:

13 (a) The effectiveness of the property tax deferral program in  
14 assisting families in economic distress in remaining in their homes;

15 (b) The effectiveness of the property tax deferral program in  
16 decreasing the default rate on residential mortgages for the statewide  
17 population within the income threshold of the program;

18 (c) The number of potential participants per thousand population by  
19 geographic region;

20 (d) The ratio of actual deferral program participants to potential  
21 deferral program participants by geographic region;

22 (e) The ratio of average annual household property taxes for  
23 deferral program participants and average annual income of deferral  
24 program participants by geographic region;

25 (f) Economic conditions in the housing and lending markets for the  
26 prior three years and the forecasted economic conditions for the  
27 current biennium and the next succeeding biennium;

28 (g) Annual costs specific to the administration of the deferral  
29 program; and

30 (h) Total annual costs of the deferral program(~~+~~

31 ~~-i) Recommended changes to the deferral program that would increase~~  
32 ~~program participation;~~

33 ~~(j) Any other recommendations the committee may have to improve the~~  
34 ~~deferral program; and~~

35 ~~(k) Any other factors that the committee considers necessary to~~  
36 ~~properly evaluate the deferral program)).~~

37 (3) This section expires January 1, 2012.

1       **Sec. 209.** RCW 84.48.050 and 1995 c 134 s 15 are each amended to  
2 read as follows:

3       (1) The county assessor (~~shall~~) must, on or before the fifteenth  
4 day of January in each year, (~~make out and transmit to the state~~  
5 ~~auditor, in such form as may be prescribed,~~) prepare a complete  
6 abstract of the tax rolls of the county, showing the number of acres  
7 that have been assessed and the total value of the real property,  
8 including the structures on the real property; the total value of all  
9 taxable personal property in the county; the aggregate amount of all  
10 taxable property in the county; the total amount as equalized and the  
11 total amount of taxes levied in the county for state, county, city, and  
12 other taxing district purposes, for that year. (~~Should the~~)

13       (2) If an assessor of any county fails to transmit to the  
14 department of revenue the abstract provided for in RCW 84.48.010, and  
15 if(~~, by reason of such failure to transmit such abstract, any~~) a  
16 county (~~shall~~) fails to collect and pay to the state its due  
17 proportion of the state tax for any year because of that failure, the  
18 department of revenue (~~shall~~) must ascertain what amount of state tax  
19 (~~said~~) the county (~~has~~) failed to collect(~~, and~~). The department  
20 must certify (~~the same~~) to the (~~state~~) county auditor(~~, who shall~~  
21 ~~charge the amount to the proper county and notify the auditor of said~~  
22 ~~county of the amount of said charge; said~~) the amount of state tax the  
23 county failed to collect. This sum (~~shall be~~) is due and payable  
24 immediately by warrant in favor of the state on the current expense  
25 fund of (~~said~~) the county.

26       **Sec. 210.** RCW 84.52.030 and 1994 c 124 s 38 are each amended to  
27 read as follows:

28       For the purpose of raising revenue for state, county, and other  
29 taxing district purposes, the county legislative authority of each  
30 county (~~at its October session~~), and all other officials or boards  
31 authorized by law to levy taxes for taxing district purposes, (~~shall~~)  
32 must levy taxes on all the taxable property in the county or district,  
33 as the case may be, sufficient for such purposes, and within the  
34 limitations permitted by law.

35       **Sec. 211.** RCW 84.52.070 and 1994 c 81 s 86 are each amended to  
36 read as follows:

1       (1) It (~~shall be~~) is the duty of the county legislative authority  
2 of each county, on or before the thirtieth day of November in each  
3 year, to certify to the county assessor (~~of the county~~) the amount of  
4 taxes levied upon the property in the county for county purposes, and  
5 the respective amounts of taxes levied by the board for each taxing  
6 district, within or coextensive with the county, for district  
7 purposes(~~, and~~).

8       (2) It (~~shall be~~) is the duty of the council of each city having  
9 a population of three hundred thousand or more, and of the council of  
10 each town, and of all officials or boards of taxing districts within or  
11 coextensive with the county, authorized by law to levy taxes directly  
12 and not through the county legislative authority, on or before the  
13 thirtieth day of November in each year, to certify to the county  
14 assessor (~~of the county~~) the amount of taxes levied upon the property  
15 within the city, town, or district for city, town, or district  
16 purposes.

17       (3) If a levy amount is (~~not~~) certified to the county assessor  
18 (~~by~~) after the thirtieth day of November, the county assessor  
19 (~~shall~~) may use no more than the certified levy amount for the  
20 previous year for the taxing district(~~(:—PROVIDED, That)~~). This  
21 (~~shall~~) subsection (3) does not apply to the state levy or when the  
22 assessor has not certified assessed values as required by RCW 84.48.130  
23 at least twelve working days (~~prior to~~) before November 30th.

24       **Sec. 212.** RCW 84.52.080 and 1989 c 378 s 16 are each amended to  
25 read as follows:

26       (1) The county assessor (~~shall~~) must extend the taxes upon the  
27 tax rolls in the form (~~herein~~) prescribed in this section. The rate  
28 percent necessary to raise the amounts of taxes levied for state and  
29 county purposes, and for purposes of taxing districts coextensive with  
30 the county, (~~shall~~) must be computed upon the assessed value of the  
31 property of the county(~~(+)~~). The rate percent necessary to raise the  
32 amount of taxes levied for any taxing district within the county  
33 (~~shall~~) must be computed upon the assessed value of the property of  
34 the district(~~(+)~~). All taxes assessed against any property (~~shall~~)  
35 must be added together and extended on the rolls in a column headed  
36 consolidated or total tax. In extending any tax, whenever (~~it~~) the  
37 tax amounts to a fractional part of a cent greater than (~~five mills~~)

1 one-half of a cent it (~~shall~~) must be (~~made~~) rounded up to one  
2 cent, and whenever it amounts to (~~five mills~~) one-half of a cent or  
3 less (~~than five mills~~) it (~~shall~~) must be dropped. The amount of  
4 all taxes (~~shall~~) must be entered in the proper columns, as shown by  
5 entering the rate percent necessary to raise the consolidated or total  
6 tax and the total tax assessed against the property.

7 (2) For the purpose of computing the rate necessary to raise the  
8 amount of any excess levy in a taxing district (~~which has classified~~  
9 ~~or designated forest land under chapter 84.33 RCW~~) entitled to a  
10 distribution under RCW 84.33.081, other than the state, the county  
11 assessor (~~shall~~) must add the district's timber assessed value, as  
12 defined in RCW 84.33.035, to the assessed value of the property(~~+~~  
13 ~~PROVIDED, That~~). However, for school districts maintenance and  
14 operations levies, only one-half of the district's timber assessed  
15 value or eighty percent of the timber roll of (~~such~~) the district in  
16 calendar year 1983 as determined under chapter 84.33 RCW, whichever is  
17 greater, (~~shall~~) must be added to the assessed value of the property.

18 (3) Upon the completion of such tax extension, it (~~shall be~~) is  
19 the duty of the county assessor to make in each assessment book, tax  
20 roll or list a certificate in the following form:

21 I,....., assessor of..... county, state of  
22 Washington, do hereby certify that the foregoing is a  
23 correct list of taxes levied on the real and personal property  
24 in the county of..... for the year (~~one~~) two thousand  
25 (~~nine hundred and~~).....  
26 Witness my hand this.... day of....., (~~19~~) 20...  
27 ....., County Assessor

28 (4) The county assessor (~~shall~~) must deliver (~~said~~) the tax  
29 rolls to the county treasurer, on or before the fifteenth day of  
30 January, taking a receipt (~~therefor, and~~) from the treasurer. At the  
31 same time, the county assessor (~~shall~~) must provide the county  
32 auditor with an abstract of the tax rolls showing the total amount of  
33 taxes collectible in each of the taxing districts.

34 NEW SECTION. **Sec. 213.** RCW 84.55.080 (Adjustment to tax

1 limitation) and 2006 c 184 s 5 & 1982 1st ex.s. c 42 s 12 are each  
2 repealed.

3 **PART III**  
4 **MISCELLANEOUS**

5 NEW SECTION. **Sec. 301.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 302.** 2009 c 461 s 9, 2006 c 300 s 12, and 2003  
10 c 149 s 12 (uncodified) are codified as a section within chapter 82.32  
11 RCW.

12 NEW SECTION. **Sec. 303.** Except as otherwise provided in section  
13 304 of this act, this act takes effect July 1, 2010.

14 NEW SECTION. **Sec. 304.** Section 124 of this act takes effect  
15 January 1, 2014.

16 NEW SECTION. **Sec. 305.** Section 123 of this act expires January 1,  
17 2014.

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