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HOUSE BILL 2080

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Hasegawa and Moscoso

Read first time 04/13/11. Referred to Committee on Ways & Means.

1            AN ACT Relating to modifying tax refund and interest provisions;  
2 amending RCW 82.32.050, 82.32.060, 82.32.062, 82.45.100, 82.12.045,  
3 83.100.130, 84.56.440, 35.102.080, 35.102.110, and 74.60.050; and  
4 creating a new section.

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

6            **Sec. 1.** RCW 82.32.050 and 2008 c 181 s 501 are each amended to  
7 read as follows:

8            (1) If upon examination of any returns or from other information  
9 obtained by the department it appears that a tax or penalty has been  
10 paid less than that properly due, the department (~~shall~~) must assess  
11 against the taxpayer such additional amount found to be due and  
12 (~~shall~~) must add thereto interest on the tax only. The department  
13 (~~shall~~) must notify the taxpayer by mail, or electronically as  
14 provided in RCW 82.32.135, of the additional amount and the additional  
15 amount (~~shall~~) becomes due and (~~shall~~) must be paid within thirty  
16 days from the date of the notice, or within such further time as the  
17 department may provide.

18            (a) For tax liabilities arising before January 1, 1992, interest  
19 (~~shall be~~) is computed at the rate of nine percent per annum from the

1 last day of the year in which the deficiency is incurred until the  
2 earlier of December 31, 1998, or the date of payment. After December  
3 31, 1998, the rate of interest (~~((shall be))~~) is variable and computed as  
4 provided in subsection (2) of this section. The rate so computed  
5 (~~((shall))~~) must be adjusted on the first day of January of each year for  
6 use in computing interest for that calendar year.

7 (b) For tax liabilities arising after December 31, 1991, the rate  
8 of interest (~~((shall be))~~) is variable and computed as provided in  
9 subsection (2) of this section from the last day of the year in which  
10 the deficiency is incurred until the date of payment. The rate so  
11 computed (~~((shall))~~) must be adjusted on the first day of January of each  
12 year for use in computing interest for that calendar year.

13 (c) Interest imposed after December 31, 1998, (~~((shall be))~~) is  
14 computed from the last day of the month following each calendar year  
15 included in a notice, and the last day of the month following the final  
16 month included in a notice if not the end of a calendar year, until the  
17 due date of the notice. If payment in full is not made by the due date  
18 of the notice, additional interest (~~((shall be))~~) is computed until the  
19 date of payment. The rate of interest (~~((shall be))~~) is variable and  
20 computed as provided in subsection (2) of this section. The rate so  
21 computed (~~((shall))~~) must be adjusted on the first day of January of each  
22 year for use in computing interest for that calendar year.

23 (2) For the purposes of this section, the rate of interest to be  
24 charged to the taxpayer (~~((shall))~~) must be an average of the (~~((federal~~  
25 ~~short term rate as defined in 26 U.S.C. Sec. 1274(d) plus two~~  
26 ~~percentage points))~~) rate for twenty-four month personal credit card  
27 plans as provided in the G.19 consumer credit report prepared by the  
28 federal reserve board. The rate set for each new year (~~((shall be))~~) is  
29 computed by taking an arithmetical average to the nearest percentage  
30 point of the (~~((federal short term))~~) rate, compounded annually. That  
31 average (~~((shall))~~) must be calculated using the rates from (~~((four~~  
32 ~~months: January, April, and July of the calendar year immediately~~  
33 ~~preceding the new year, and October of the previous preceding year))~~)  
34 the most recent four calendar quarters included in the June report,  
35 which is released in August of each year, regardless of whether the  
36 rates posted in the June report are revised or preliminary.

37 (3) During a state of emergency declared under RCW 43.06.010(12),  
38 the department, on its own motion or at the request of any taxpayer

1 affected by the emergency, may extend the due date of any assessment or  
2 correction of an assessment for additional taxes, penalties, or  
3 interest as the department deems proper.

4 (4) No assessment or correction of an assessment for additional  
5 taxes, penalties, or interest due may be made by the department more  
6 than four years after the close of the tax year, except (a) against a  
7 taxpayer who has not registered as required by this chapter, (b) upon  
8 a showing of fraud or of misrepresentation of a material fact by the  
9 taxpayer, or (c) where a taxpayer has executed a written waiver of such  
10 limitation. The execution of a written waiver (~~((shall))~~) also extends  
11 the period for making a refund or credit as provided in RCW  
12 82.32.060(2).

13 (5) For the purposes of this section, "return" means any document  
14 a person is required by the state of Washington to file to satisfy or  
15 establish a tax or fee obligation that is administered or collected by  
16 the department of revenue and that has a statutorily defined due date.

17 **Sec. 2.** RCW 82.32.060 and 2009 c 176 s 4 are each amended to read  
18 as follows:

19 (1) If, upon receipt of an application by a taxpayer for a refund  
20 or for an audit of the taxpayer's records, or upon an examination of  
21 the returns or records of any taxpayer, it is determined by the  
22 department that (~~((within the statutory period for assessment of taxes,  
23 penalties, or interest prescribed by RCW 82.32.050))~~) any amount of tax,  
24 penalty, or interest has been paid in excess of that properly due, the  
25 excess amount paid (~~((within, or attributable to, such period))~~) must be  
26 credited to the taxpayer's account or must be refunded to the taxpayer,  
27 at the taxpayer's option. Except as provided in subsection (2) of this  
28 section, no refund or credit may be made for taxes, penalties, or  
29 interest paid more than (~~((four))~~) three years prior to the beginning of  
30 the calendar year in which the refund application is made or  
31 examination of records is completed. Notwithstanding the limitation on  
32 the time for making a refund or credit provided in this subsection,  
33 when the department conducts an audit or examination of the taxpayer's  
34 records or returns and identifies an overpayment of tax, penalty, or  
35 interest for a particular tax year within the scope of the audit or  
36 examination and for which a refund or credit may not be made because of  
37 the lapse of the three-year period in this subsection, the amount of

1 any deficiency determined by the department for that same tax year must  
2 be reduced by the amount of the overpayment. However, if the  
3 overpayment exceeds the amount of the deficiency, the amount of the  
4 overpayment that exceeds the deficiency may not be refunded or credited  
5 against any deficiency for any other tax year.

6 (2)(a) The execution of a written waiver under RCW 82.32.050 or  
7 82.32.100 (~~will~~) extends the time for making a refund or credit of  
8 any taxes paid during, or attributable to, the years covered by the  
9 waiver if, prior to the expiration of the waiver period, an application  
10 for refund of such taxes is made by the taxpayer or the department  
11 discovers a refund or credit is due.

12 (b) A refund or credit must be allowed for an excess payment  
13 resulting from the failure to claim a bad debt deduction, credit, or  
14 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or  
15 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec. 166,  
16 as amended or renumbered as of January 1, 2003, less than (~~four~~)  
17 three years prior to the beginning of the calendar year in which the  
18 refund application is made or examination of records is completed.

19 (3) Any such refunds must be made by means of vouchers approved by  
20 the department and by the issuance of state warrants drawn upon and  
21 payable from such funds as the legislature may provide. However,  
22 taxpayers who are required to pay taxes by electronic funds transfer  
23 under RCW 82.32.080 must have any refunds paid by electronic funds  
24 transfer if the department has the necessary account information to  
25 facilitate a refund by electronic funds transfer.

26 (4) Any judgment for which a recovery is granted by any court of  
27 competent jurisdiction, not appealed from, for tax, penalties, and  
28 interest which were paid by the taxpayer, and costs, in a suit by any  
29 taxpayer must be paid in the same manner, as provided in subsection (3)  
30 of this section, upon the filing with the department of a certified  
31 copy of the order or judgment of the court.

32 (~~(a) Interest at the rate of three percent per annum must be~~  
33 ~~allowed by the department and by any court on the amount of any refund,~~  
34 ~~credit, or other recovery allowed to a taxpayer for taxes, penalties,~~  
35 ~~or interest paid by the taxpayer before January 1, 1992. This rate of~~  
36 ~~interest applies for all interest allowed through December 31, 1998.~~  
37 ~~Interest allowed after December 31, 1998, must be computed at the rate~~

1 ~~as computed under RCW 82.32.050(2). The rate so computed must be~~  
2 ~~adjusted on the first day of January of each year for use in computing~~  
3 ~~interest for that calendar year.~~

4 ~~(b) For refunds or credits of amounts paid or other recovery~~  
5 ~~allowed to a taxpayer after December 31, 1991, the rate of interest~~  
6 ~~must be the rate as computed for assessments under RCW 82.32.050(2)~~  
7 ~~less one percent. This rate of interest applies for all interest~~  
8 ~~allowed through December 31, 1998. Interest allowed after December 31,~~  
9 ~~1998, must be computed at the rate as computed under RCW 82.32.050(2).~~  
10 ~~The rate so computed must be adjusted on the first day of January of~~  
11 ~~each year for use in computing interest for that calendar year.)~~

12 (5) Interest allowed on a credit notice or refund issued after  
13 December 31, 2003, must be computed as follows:

14 (a) If all overpayments for each calendar year and all reporting  
15 periods ending with the final month included in a notice or refund were  
16 made on or before the due date of the final return for each calendar  
17 year or the final reporting period included in the notice or refund:

18 (i) Interest must be computed from January 31st following each  
19 calendar year included in a notice or refund; or

20 (ii) Interest must be computed from the last day of the month  
21 following the final month included in a notice or refund.

22 (b) If the taxpayer has not made all overpayments for each calendar  
23 year and all reporting periods ending with the final month included in  
24 a notice or refund on or before the dates specified by RCW 82.32.045  
25 for the final return for each calendar year or the final month included  
26 in the notice or refund, interest must be computed from the last day of  
27 the month following the date on which payment in full of the  
28 liabilities was made for each calendar year included in a notice or  
29 refund, and the last day of the month following the date on which  
30 payment in full of the liabilities was made if the final month included  
31 in a notice or refund is not the end of a calendar year.

32 (c) Interest included in a credit notice must accrue up to the date  
33 the taxpayer could reasonably be expected to use the credit notice, as  
34 defined by the department's rules. If a credit notice is converted to  
35 a refund, interest must be recomputed to the date the refund is issued,  
36 but not to exceed the amount of interest that would have been allowed  
37 with the credit notice.

1       (6) For the purposes of this section, the rate of interest allowed  
2 under this section for a credit or refund must be an average of the  
3 federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two  
4 percentage points. The rate set for each new year must be computed by  
5 taking an arithmetical average to the nearest percentage point of the  
6 federal short-term rate, compounded annually. That average must be  
7 calculated using the rates from four months: January, April, and July  
8 of the calendar year immediately preceding the new year, and October of  
9 the previous preceding year. The rate so computed must be adjusted on  
10 the first day of January of each year for use in computing interest for  
11 that calendar year.

12       (7) This section does not limit the time in which a credit notice  
13 issued by the department to a taxpayer may be used or converted into a  
14 refund.

15       **Sec. 3.** RCW 82.32.062 and 2002 c 57 s 1 are each amended to read  
16 as follows:

17       In addition to the procedure set forth in RCW 82.32.060 and as an  
18 exception to the (~~four-year~~) three-year period explicitly set forth  
19 in RCW 82.32.060, an offset for a tax that has been paid in excess of  
20 that properly due may be taken under the following conditions: (1) The  
21 tax paid in excess of that properly due was sales tax paid on the  
22 purchase of property acquired for leasing; (2) the taxpayer was at the  
23 time of purchase entitled to purchase the property at wholesale under  
24 RCW 82.04.060; and (3) the taxpayer substantiates that sales tax was  
25 paid at the time of purchase and that there was no intervening use of  
26 the equipment by the taxpayer. The offset is applied to and reduced by  
27 the amount of retail sales tax otherwise due from the beginning of  
28 lease of the property until the offset is extinguished.

29       **Sec. 4.** RCW 82.45.100 and 2010 1st sp.s. c 23 s 211 are each  
30 amended to read as follows:

31       (1) Payment of the tax imposed under this chapter is due and  
32 payable immediately at the time of sale, and if not paid within one  
33 month thereafter will bear interest from the time of sale until the  
34 date of payment.

35       (a) Interest imposed before January 1, 1999, is computed at the  
36 rate of one percent per month.

1 (b) Interest imposed after December 31, 1998, is computed on a  
2 monthly basis at the rate as computed under RCW 82.32.050(2). The rate  
3 so computed must be adjusted on the first day of January of each year  
4 for use in computing interest for that calendar year. The department  
5 must provide written notification to the county treasurers of the  
6 variable rate on or before December 1st of the year preceding the  
7 calendar year in which the rate applies.

8 (2) In addition to the interest described in subsection (1) of this  
9 section, if the payment of any tax is not received by the county  
10 treasurer or the department of revenue, as the case may be, within one  
11 month of the date due, there is assessed a penalty of five percent of  
12 the amount of the tax; if the tax is not received within two months of  
13 the date due, there will be assessed a total penalty of ten percent of  
14 the amount of the tax; and if the tax is not received within three  
15 months of the date due, there will be assessed a total penalty of  
16 twenty percent of the amount of the tax. The payment of the penalty  
17 described in this subsection is collectible from the seller only, and  
18 RCW 82.45.070 does not apply to the penalties described in this  
19 subsection.

20 (3) If the tax imposed under this chapter is not received by the  
21 due date, the transferee is personally liable for the tax, along with  
22 any interest as provided in subsection (1) of this section, unless an  
23 instrument evidencing the sale is recorded in the official real  
24 property records of the county in which the property conveyed is  
25 located.

26 (4) If upon examination of any affidavits or from other information  
27 obtained by the department or its agents it appears that all or a  
28 portion of the tax is unpaid, the department must assess against the  
29 taxpayer the additional amount found to be due plus interest and  
30 penalties as provided in subsections (1) and (2) of this section. The  
31 department must notify the taxpayer by mail, or electronically as  
32 provided in RCW 82.32.135, of the additional amount and the same  
33 becomes due and must be paid within thirty days from the date of the  
34 notice, or within such further time as the department may provide.

35 (5)(a) If, upon receipt of an application by a taxpayer for a  
36 refund, or upon examination of any affidavits or from other information  
37 obtained by the department or its agents, the department determines

1 that the taxpayer has overpaid the tax due under this chapter, the  
2 department must refund the amount of the overpayment, together with  
3 interest as provided in (b) of this subsection (5).

4 (b) Interest on refunds must be allowed at the rate provided in RCW  
5 82.32.060. The rate so computed must be adjusted on the first day of  
6 January of each year for use in computing interest for that calendar  
7 year. Interest must be refunded from the date of overpayment until the  
8 date the refund is mailed. No refund may be made by the department  
9 more than three years after the date of sale.

10 (6) No assessment (~~(or refund)~~) may be made by the department more  
11 than four years after the date of sale except upon a showing of:

12 (a) Fraud or misrepresentation of a material fact by the taxpayer;

13 (b) A failure by the taxpayer to record documentation of a sale or  
14 otherwise report the sale to the county treasurer; or

15 (c) A failure of the transferor or transferee to report the sale  
16 under RCW 82.45.090(2).

17 ~~((+6))~~ (7) Penalties collected on taxes due under this chapter  
18 under subsection (2) of this section and RCW 82.32.090 (2) through (8)  
19 must be deposited in the housing trust fund as described in chapter  
20 43.185 RCW.

21 **Sec. 5.** RCW 82.12.045 and 2010 c 161 s 904 are each amended to  
22 read as follows:

23 (1) In the collection of the use tax on vehicles, the department of  
24 revenue may designate the county auditors of the several counties of  
25 the state as its collecting agents. Upon such designation, it (~~shall~~  
26 ~~be~~) is the duty of each county auditor to collect the tax at the time  
27 an applicant applies for transfer of certificate of title to the  
28 vehicle, except when the applicant:

29 (a) Exhibits a dealer's report of sale showing that the retail  
30 sales tax has been collected by the dealer;

31 (b) Presents a written statement signed by the department of  
32 revenue, or its duly authorized agent showing that no use tax is  
33 legally due; or

34 (c) Presents satisfactory evidence showing that the retail sales  
35 tax or the use tax has been paid by the applicant on the vehicle in  
36 question.



1 (2) As used in this section, "vehicle" has the same meaning as in  
2 RCW 46.04.670.

3 (3) It (~~shall be~~) is the duty of every applicant for registration  
4 and transfer of certificate of title who is subject to payment of tax  
5 under this section to declare upon the application the value of the  
6 vehicle for which application is made, which (~~shall~~) consists of the  
7 consideration paid or contracted to be paid therefor.

8 (4) Each county auditor who acts as agent of the department of  
9 revenue (~~shall~~) must at the time of remitting vehicle license fee  
10 receipts on vehicles subject to the provisions of this section pay over  
11 and account to the state treasurer for all use tax revenue collected  
12 under this section, after first deducting as a collection fee the sum  
13 of two dollars for each motor vehicle upon which the tax has been  
14 collected. All revenue received by the state treasurer under this  
15 section (~~shall~~) must be credited to the general fund. The auditor's  
16 collection fee (~~shall~~) must be deposited in the county current  
17 expense fund. A duplicate of the county auditor's transmittal report  
18 to the state treasurer (~~shall~~) must be forwarded (~~forthwith~~)  
19 immediately to the department of revenue.

20 (5) Any applicant who has paid use tax to a county auditor under  
21 this section may apply to the department of revenue for refund thereof  
22 if he or she has reason to believe that such tax was not legally due  
23 and owing. No refund (~~shall be~~) is allowed unless application  
24 therefor is received by the department of revenue within the statutory  
25 period (~~for assessment of taxes, penalties, or interest prescribed by~~  
26 ~~RCW 82.32.050(4))~~ for refunds provided in RCW 82.32.060. Upon receipt  
27 of an application for refund the department of revenue (~~shall~~) must  
28 consider the same and issue its order either granting or denying it and  
29 if refund is denied the taxpayer (~~shall have~~) has the right of appeal  
30 as provided in RCW 82.32.170, 82.32.180, and 82.32.190.

31 (6) The provisions of this section (~~shall~~) must be construed as  
32 cumulative of other methods prescribed in chapters 82.04 through 82.32  
33 RCW, inclusive, for the collection of the tax imposed by this chapter.  
34 The department of revenue (~~shall have~~) has power to promulgate such  
35 rules as may be necessary to administer the provisions of this section.  
36 Any duties required by this section to be performed by the county  
37 auditor may be performed by the director of licensing but no collection

1 fee (~~shall~~) may be deductible by said director in remitting use tax  
2 revenue to the state treasurer.

3 (7) The use tax revenue collected on the rate provided in RCW  
4 82.08.020(3) (~~shall~~) must be deposited in the multimodal  
5 transportation account under RCW 47.66.070.

6 **Sec. 6.** RCW 83.100.130 and 2005 c 516 s 10 are each amended to  
7 read as follows:

8 (1) If, upon receipt of an application by a taxpayer for a refund,  
9 or upon examination of the returns or records of any taxpayer, the  
10 department determines that (~~within the statutory period for assessment~~  
11 ~~of taxes, penalties, or interest prescribed by RCW 83.100.095~~) a  
12 person required to file the Washington return under RCW 83.100.050 has  
13 overpaid the tax due under this chapter, the department (~~shall~~) must  
14 refund the amount of the overpayment, together with interest as  
15 provided in subsection (2) of this section. If the application for  
16 refund, with supporting documents, is filed within one hundred twenty  
17 days after an adjustment or final determination of federal tax  
18 liability, the department (~~shall~~) must pay interest until the date  
19 the refund is mailed. If the application for refund, with supporting  
20 documents, is filed after one hundred twenty days after the adjustment  
21 or final determination, the department (~~shall~~) must pay interest only  
22 until the end of the one hundred twenty-day period.

23 (2) Interest refunded under this section (~~for periods before~~  
24 ~~January 2, 1997, shall be computed at the rate provided in RCW~~  
25 ~~83.100.070(1). Interest refunded under this section for periods after~~  
26 ~~January 1, 1997, through December 31, 1998, shall be computed on a~~  
27 ~~daily basis at the rate as computed under RCW 82.32.050(2) less one~~  
28 ~~percentage point. Interest allowed for periods after December 31,~~  
29 ~~1998, shall be)) is computed at the rate as computed under RCW  
30 (~~82.32.050(2)~~) 82.32.060. Except as provided in subsection (1) of  
31 this section, interest (~~shall~~) must be refunded from the date of  
32 overpayment until the date the refund is mailed. The rate so computed  
33 (~~shall~~) must be adjusted on the first day of January of each year.~~

34 (3) Except as otherwise provided in subsection (4) of this section  
35 and RCW 83.100.090, no refund (~~shall~~) may be made for taxes,  
36 penalties, or interest paid more than (~~four~~) three years prior to the

1 beginning of the calendar year in which the refund application is made  
2 or an examination of records is complete.

3 (4) The execution of a written waiver under RCW 83.100.095  
4 (~~shall~~) extends the time for making a refund if, prior to the  
5 expiration of the waiver period, an application for refund is made by  
6 the taxpayer or the department discovers a refund is due.

7 (5) An application for refund (~~shall~~) must be on a form  
8 prescribed by the department and (~~shall~~) must contain any information  
9 and supporting documents the department requires.

10 **Sec. 7.** RCW 84.56.440 and 2008 c 181 s 511 are each amended to  
11 read as follows:

12 (1)(a) The department of revenue (~~shall~~) must collect all ad  
13 valorem taxes upon ships and vessels listed with the department in  
14 accordance with RCW 84.40.065 and all applicable interest and  
15 penalties.

16 (b) The taxes (~~shall be~~) are due and payable to the department on  
17 or before the thirtieth day of April and (~~shall be~~) are delinquent  
18 after that date.

19 (2) If payment of the tax is not received by the department by the  
20 due date, there (~~shall be~~) is imposed a penalty of five percent of  
21 the amount of the tax; and if the tax is not received within thirty  
22 days after the due date, there (~~shall be~~) is imposed a total penalty  
23 of ten percent of the amount of the tax; and if the tax is not received  
24 within sixty days after the due date, there (~~shall be~~) is imposed a  
25 total penalty of twenty percent of the amount of the tax. No penalty  
26 so added (~~shall~~) may be less than five dollars.

27 (3) Delinquent taxes under this section are subject to interest at  
28 the rate set forth in RCW 82.32.050 from the date of delinquency until  
29 paid. Interest or penalties collected on delinquent taxes under this  
30 section (~~shall~~) must be paid by the department into the general fund  
31 of the state treasury.

32 (4) If upon information obtained by the department it appears that  
33 any ship or vessel required to be listed according to the provisions of  
34 RCW 84.40.065 is not so listed, the department (~~shall~~) must value the  
35 ship or vessel and assess against the owner of the vessel the taxes  
36 found to be due and (~~shall~~) must add thereto interest at the rate set  
37 forth in RCW 82.32.050 from the original due date of the tax until the

1 date of payment. The department (~~shall~~) must notify the vessel owner  
2 by mail of the amount and the same (~~shall~~) becomes due and (~~shall~~)  
3 must be paid by the vessel owner within thirty days of the date of the  
4 notice. If payment is not received by the department by the due date  
5 specified in the notice, the department (~~shall~~) must add a penalty of  
6 ten percent of the tax found due. A person who willfully gives a false  
7 listing or willfully fails to list a ship or vessel as required by RCW  
8 84.40.065 (~~shall be~~) is subject to the penalty imposed by RCW  
9 84.40.130(2), which (~~shall~~) must be assessed and collected by the  
10 department.

11 (5) Delinquent taxes under this section, along with all penalties  
12 and interest thereon, (~~shall~~) must be collected by the department  
13 according to the procedures set forth in chapter 82.32 RCW for the  
14 filing and execution of tax warrants, including the imposition of  
15 warrant interest. In the event a warrant is issued by the department  
16 for the collection of taxes under this section, the department  
17 (~~shall~~) must add a penalty of five percent of the amount of the  
18 delinquent tax, but not less than ten dollars.

19 (6) The department (~~shall~~) must also collect all delinquent taxes  
20 pertaining to ships and vessels appearing on the records of the county  
21 treasurers for each of the counties of this state as of December 31,  
22 1993, including any applicable interest or penalties. The provisions  
23 of subsection (5) of this section (~~shall~~) apply to the collection of  
24 such delinquent taxes.

25 (7) During a state of emergency declared under RCW 43.06.010(12),  
26 the department, on its own motion or at the request of any taxpayer  
27 affected by the emergency, may grant extensions of the due date of any  
28 taxes payable under this section as the department deems proper.

29 (8)(a) If, upon receipt of an application by a vessel owner for a  
30 refund, or upon examination of any information obtained by the  
31 department, the department determines that the vessel owner has  
32 overpaid the tax due under this section, the department must refund the  
33 amount of the overpayment, together with interest as provided in (b) of  
34 this subsection (8).

35 (b) Interest on refunds must be allowed at the rate provided in RCW  
36 82.32.060. The rate so computed must be adjusted on the first day of  
37 January of each year for use in computing interest for that calendar  
38 year. Interest must be refunded from the date of overpayment until the

1 date the refund is mailed. No refund may be made by the department  
2 more than three years prior to the beginning of the calendar year in  
3 which the refund application is made or the department's examination of  
4 information is complete.

5 **Sec. 8.** RCW 35.102.080 and 2003 c 79 s 8 are each amended to read  
6 as follows:

7 (1) A city that imposes a business and occupation tax (~~shall~~)  
8 must compute interest charged a taxpayer on an underpaid tax or penalty  
9 in accordance with RCW 82.32.050, as that statute existed on January 1,  
10 2011.

11 (2) A city that imposes a business and occupation tax (~~shall~~)  
12 must compute interest paid on refunds or credits of amounts paid or  
13 other recovery allowed a taxpayer in accordance with RCW 82.32.060.

14 **Sec. 9.** RCW 35.102.110 and 2003 c 79 s 11 are each amended to read  
15 as follows:

16 The provisions relating to the time period allowed for a refund of  
17 taxes paid (~~shall~~) must be in accordance with chapter 82.32 RCW, as  
18 that chapter existed on January 1, 2011.

19 **Sec. 10.** RCW 74.60.050 and 2010 1st sp.s. c 30 s 6 are each  
20 amended to read as follows:

21 (1) The department, in cooperation with the office of financial  
22 management, (~~shall~~) must develop rules for determining the amount to  
23 be assessed to individual hospitals, notifying individual hospitals of  
24 the assessed amount, and collecting the amounts due. Such rule making  
25 (~~shall~~) must specifically include provision for:

26 (a) Transmittal of quarterly notices of assessment by the  
27 department to each hospital informing the hospital of its nonmedicare  
28 hospital inpatient days and the assessment amount due and payable.  
29 Such quarterly notices (~~shall~~) must be sent to each hospital at least  
30 thirty calendar days prior to the due date for the quarterly assessment  
31 payment.

32 (b) Interest on delinquent assessments at the rate specified in RCW  
33 82.32.050, as that statute existed on January 1, 2011.

34 (c) Adjustment of the assessment amounts as follows:

1 (i) For each fiscal year beginning July 1, 2010, the assessment  
2 amounts under RCW 74.60.030 (1) and (3) may be adjusted as follows:

3 (A) If sufficient other funds for hospitals, excluding any  
4 extension of section 5001 of P.L. No. 111-5, are available to support  
5 the reimbursement rates and other payments under RCW 74.60.080,  
6 74.60.090, 74.60.100, 74.60.110, or 74.60.120 without utilizing the  
7 full assessment authorized under RCW 74.60.030 (1) or (3), the  
8 department shall reduce the amount of the assessment for prospective  
9 payment system, psychiatric, and rehabilitation hospitals  
10 proportionately to the minimum level necessary to support those  
11 reimbursement rates and other payments.

12 (B) Provided that none of the conditions set forth in RCW  
13 74.60.150(2) have occurred, if the department's forecasts indicate that  
14 the assessment amounts under RCW 74.60.030 (1) and (3), together with  
15 all other available funds, are not sufficient to support the  
16 reimbursement rates and other payments under RCW 74.60.080, 74.60.090,  
17 74.60.100, 74.60.110, or 74.60.120, the department (~~shall~~) must  
18 increase the assessment rates for prospective payment system,  
19 psychiatric, and rehabilitation hospitals proportionately to the amount  
20 necessary to support those reimbursement rates and other payments, plus  
21 a contingency factor up to ten percent of the total assessment amount.

22 (C) Any positive balance remaining in the fund at the end of the  
23 fiscal year (~~shall~~) must be applied to reduce the assessment amount  
24 for the subsequent fiscal year.

25 (ii) Any adjustment to the assessment amounts pursuant to this  
26 subsection, and the data supporting such adjustment, including but not  
27 limited to relevant data listed in subsection (2) of this section, must  
28 be submitted to the Washington state hospital association for review  
29 and comment at least sixty calendar days prior to implementation of  
30 such adjusted assessment amounts. Any review and comment provided by  
31 the Washington state hospital association (~~shall~~) may not limit the  
32 ability of the Washington state hospital association or its members to  
33 challenge an adjustment or other action by the department that is not  
34 made in accordance with this chapter.

35 (2) By November 30th of each year, the department (~~shall~~) must  
36 provide the following data to the Washington state hospital  
37 association:

38 (a) The fund balance;

1 (b) The amount of assessment paid by each hospital;  
2 (c) The annual medicaid fee-for-service payments for inpatient  
3 hospital services and outpatient hospital services; and

4 (d) The medicaid healthy options inpatient and outpatient payments  
5 as reported by all hospitals to the department on disproportionate  
6 share hospital applications. The department (~~shall~~) must amend the  
7 disproportionate share hospital application and reporting instructions  
8 as needed to ensure that the foregoing data is reported by all  
9 hospitals as needed in order to comply with this subsection (2)(d).

10 (3) The department (~~shall~~) must determine the number of  
11 nonmedicare hospital inpatient days for each hospital for each  
12 assessment period.

13 (4) To the extent necessary, the department (~~shall~~) must amend  
14 the contracts between the managed care organizations and the department  
15 and between regional support networks and the department to incorporate  
16 the provisions of RCW 74.60.120. The department (~~shall~~) must pursue  
17 amendments to the contracts as soon as possible after April 27, 2010.  
18 The amendments to the contracts (~~shall~~) must, among other provisions,  
19 provide for increased payment rates to managed care organizations in  
20 accordance with RCW 74.60.120.

21 NEW SECTION. **Sec. 11.** (1) The interest rate provisions of this  
22 act apply only to interest imposed after December 31, 2011, regardless  
23 of whether the interest relates to tax liabilities incurred before the  
24 effective date of this section.

25 (2) The provisions of this act that reduce the time period for  
26 granting credits and refunds of state taxes apply only to overpayments  
27 discovered by the department of revenue and applications for refund or  
28 credit submitted to the department of revenue on and after the  
29 effective date of this section, regardless of whether the overpayments  
30 or purported overpayments were made before the effective date of this  
31 section.

32 NEW SECTION. **Sec. 12.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected.

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