

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

3 (a) Perishable meat products, by slaughtering, breaking, or
4 processing, if the finished product is a perishable meat product; as to
5 such persons the tax imposed is equal to the value of products,
6 including by-products, manufactured, or, in the case of a processor for
7 hire, the gross income of the business, multiplied by the rate of 0.138
8 percent;

9 (b) Meat products, by dehydration, curing, smoking, or any
10 combination of these activities, if the finished meat products are not
11 canned; as to such persons the tax imposed is equal to the value of
12 products, including by-products, manufactured, or, in the case of a
13 processor for hire, the gross income of the business, multiplied by the
14 rate of 0.138 percent;

15 (c) Hides, tallow, meat meal, and other similar meat by-products,
16 if such products are derived in part from animals and manufactured in
17 a rendering plant licensed under chapter 16.68 RCW; as to such persons
18 the tax imposed is equal to the value of products, including by-
19 products, manufactured, or, in the case of a processor for hire, the
20 gross income of the business, multiplied by the rate of 0.138 percent.

21 (2) Upon every person engaging within this state in the business of
22 selling at wholesale:

23 (a) Perishable meat products; as to such persons the tax imposed is
24 equal to the gross proceeds derived from such sales multiplied by the
25 rate of 0.138 percent;

26 (b) Meat products that have been manufactured by the seller by
27 dehydration, curing, smoking, or any combination of such activities, if
28 the finished meat products are not canned; as to such persons the tax
29 imposed is equal to the gross proceeds derived from such sales
30 multiplied by the rate of 0.138 percent;

31 (c) Hides, tallow, meat meal, and other similar meat by-products,
32 if such products are derived in part from animals and manufactured by
33 the seller in a rendering plant; as to such persons the tax imposed is
34 equal to the gross proceeds derived from such sales multiplied by the
35 rate of 0.138 percent.

36 (3) The definitions in this subsection apply throughout this
37 section unless the context clearly requires otherwise.

1 (a) "Animal" means all members of the animal kingdom except humans,
2 fish, and insects.

3 (b) "Carcass" means all or any parts, including viscera, of a
4 slaughtered animal.

5 (c) "Fish" means any water-breathing animal, including shellfish.

6 (d) "Hide" means any unprocessed animal pelt or skin.

7 (e)(i) "Meat products" means:

8 (A) Products comprised exclusively of animal carcass; and

9 (B) Products, such as jerky, sausage, and other cured meat
10 products, that are comprised primarily of animal carcass by weight or
11 volume and may also contain water; nitrates; nitrites; acids; binders
12 and extenders; natural or synthetic casings; colorings; flavorings such
13 as soy sauce, liquid smoke, seasonings, citric acid, sugar, molasses,
14 corn syrup, and vinegar; and similar substances.

15 (ii) Except as provided in (e)(i) of this subsection (3), "meat
16 products" does not include products containing any cereal grains or
17 cereal-grain products, dairy products, legumes and legume products,
18 fruit or vegetable products as defined in RCW 82.04.260, and similar
19 ingredients, unless the ingredient is used as a flavoring. For
20 purposes of this subsection, "flavoring" means a substance that
21 contains the flavoring constituents derived from a spice, fruit or
22 fruit juice, vegetable or vegetable juice, edible yeast, herb, bark,
23 bud, root, leaf, or any other edible substance of plant origin, whose
24 primary function in food is flavoring or seasoning rather than
25 nutritional, and which may legally appear as "natural flavor,"
26 "flavor," or "flavorings" in the ingredient statement on the label of
27 the meat product.

28 (iii) "Meat products" includes only products that are intended for
29 human consumption as food or animal consumption as feed.

30 (f) "Perishable" means having a high risk of spoilage within thirty
31 days of manufacture without any refrigeration or freezing.

32 (g) "Rendering plant" means any place of business or location where
33 dead animals or any part or portion thereof, or packing house refuse,
34 are processed for the purpose of obtaining the hide, skin, grease
35 residue, or any other by-product whatsoever.

36 **Sec. 102.** RCW 82.04.120 and 2011 c 23 s 3 are each amended to read
37 as follows:

1 (1) "Manufacture" and "to manufacture" embraces all activities of
2 a commercial or industrial nature wherein labor or skill is applied, by
3 hand or machinery, to materials so that as a result thereof a new,
4 different or useful substance or article of tangible personal property
5 is produced for sale or commercial or industrial use, and includes:

6 (a) The production or fabrication of special made or custom made
7 articles;

8 (b) The production or fabrication of dental appliances, devices,
9 restorations, substitutes, or other dental laboratory products by a
10 dental laboratory or dental technician;

11 (c) Cutting, delimiting, and measuring of felled, cut, or taken
12 trees; (~~and~~)

13 (d) Crushing and/or blending of rock, sand, stone, gravel, or ore;
14 and

15 (e) Printing.

16 (2) "To manufacture" does not include:

17 (a) Conditioning of seed for use in planting; cubing hay or
18 alfalfa;

19 (b) Activities which consist of cutting, grading, or ice glazing
20 seafood which has been cooked, frozen, or canned outside this state;

21 (c) The growing, harvesting, or producing of agricultural products;

22 (d) Packing of agricultural products, including sorting, washing,
23 rinsing, grading, waxing, treating with fungicide, packaging, chilling,
24 or placing in controlled atmospheric storage;

25 (e) The production of digital goods;

26 (f) The production of computer software if the computer software is
27 delivered from the seller to the purchaser by means other than tangible
28 storage media, including the delivery by use of a tangible storage
29 media where the tangible storage media is not physically transferred to
30 the purchaser; and

31 (g) Any activity that is integral to any public service business as
32 defined in RCW 82.16.010 and with respect to which the gross income
33 associated with such activity: (i) Is subject to tax under chapter
34 82.16 RCW; or (ii) would be subject to tax under chapter 82.16 RCW if
35 such activity were conducted in this state or if not for an exemption
36 or deduction.

37 (3) With respect to wastewater treatment facilities:

1 (a) "To manufacture" does not include the treatment of wastewater,
2 the production of reclaimed water, and the production of class B
3 biosolids; and

4 (b) "To manufacture" does include the production of class A or
5 exceptional quality biosolids, but only with respect to the processing
6 activities that occur after the biosolids have reached class B
7 standards.

8 **Sec. 103.** RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No.
9 1107) are each amended to read as follows:

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

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

18 (b) Beginning July 1, 2012, seafood products that remain in a raw,
19 raw frozen, or raw salted state at the completion of the manufacturing
20 by that person; or selling (~~(manufactured)~~) such seafood products
21 (~~((that remain in a raw, raw frozen, or raw salted state at the~~
22 ~~completion of the manufacturing,))~~) by the manufacturer to purchasers
23 who transport in the ordinary course of business the goods out of this
24 state; as to such persons the amount of tax with respect to such
25 business is equal to the value of the products manufactured or the
26 gross proceeds derived from such sales, multiplied by the rate of 0.138
27 percent. Sellers must keep and preserve records for the period
28 required by RCW 82.32.070 establishing that the goods were transported
29 by the purchaser in the ordinary course of business out of this state;

30 (c) Beginning July 1, 2012, dairy products that as of September 20,
31 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
32 including by-products from the manufacturing of the dairy products such
33 as whey and casein; or selling (~~(the same)~~) such dairy products by the
34 manufacturer to purchasers who transport in the ordinary course of
35 business the goods out of state; as to such persons the tax imposed is
36 equal to the value of the products manufactured or the gross proceeds
37 derived from such sales multiplied by the rate of 0.138 percent.

1 Sellers must keep and preserve records for the period required by RCW
2 82.32.070 establishing that the goods were transported by the purchaser
3 in the ordinary course of business out of this state;

4 (d)(i) Beginning July 1, 2012, fruit((s)) or vegetable((s))
5 products by canning, preserving, freezing, processing, or dehydrating
6 fresh fruits or vegetables, or selling at wholesale fruit((s)) or
7 vegetable((s)) products manufactured by the seller by canning,
8 preserving, freezing, processing, or dehydrating fresh fruits or
9 vegetables and sold to purchasers who transport in the ordinary course
10 of business the goods out of this state; as to such persons the amount
11 of tax with respect to such business is equal to the value of the
12 products manufactured or the gross proceeds derived from such sales
13 multiplied by the rate of 0.138 percent. Sellers must keep and
14 preserve records for the period required by RCW 82.32.070 establishing
15 that the goods were transported by the purchaser in the ordinary course
16 of business out of this state;

17 (ii) For purposes of this subsection, "fruit or vegetable products"
18 means:

19 (A) Products comprised exclusively of fruits, vegetables, or both;
20 or

21 (B) Products comprised of fruits, vegetables, or both, and which
22 may also contain water, sugar, salt, seasonings, preservatives,
23 binders, stabilizers, flavorings, yeast, and similar substances.
24 However, the amount of all ingredients contained in the product, other
25 than fruits, vegetables, and water, may not exceed the amount of fruits
26 and vegetables contained in the product measured by weight or volume;

27 (iii) "Fruit and vegetable products" includes only products that
28 are intended for human consumption as food or animal consumption as
29 feed;

30 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
31 feedstock, as those terms are defined in RCW 82.29A.135; as to such
32 persons the amount of tax with respect to the business is equal to the
33 value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
34 manufactured, multiplied by the rate of 0.138 percent; and

35 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
36 persons the amount of tax with respect to the business is equal to the
37 value of wood biomass fuel manufactured, multiplied by the rate of
38 0.138 percent.

1 (2) Upon every person engaging within this state in the business of
2 splitting or processing dried peas; as to such persons the amount of
3 tax with respect to such business is equal to the value of the peas
4 split or processed, multiplied by the rate of 0.138 percent.

5 (3) Upon every nonprofit corporation and nonprofit association
6 engaging within this state in research and development, as to such
7 corporations and associations, the amount of tax with respect to such
8 activities is equal to the gross income derived from such activities
9 multiplied by the rate of 0.484 percent.

10 ~~(4) ((Upon every person engaging within this state in the business~~
11 ~~of slaughtering, breaking and/or processing perishable meat products~~
12 ~~and/or selling the same at wholesale only and not at retail; as to such~~
13 ~~persons the tax imposed is equal to the gross proceeds derived from~~
14 ~~such sales multiplied by the rate of 0.138 percent.~~

15 ~~(5))~~ Upon every person engaging within this state in the business
16 of acting as a travel agent or tour operator; as to such persons the
17 amount of the tax with respect to such activities is equal to the gross
18 income derived from such activities multiplied by the rate of 0.275
19 percent.

20 ~~((6))~~ (5) Upon every person engaging within this state in
21 business as an international steamship agent, international customs
22 house broker, international freight forwarder, vessel and/or cargo
23 charter broker in foreign commerce, and/or international air cargo
24 agent; as to such persons the amount of the tax with respect to only
25 international activities is equal to the gross income derived from such
26 activities multiplied by the rate of 0.275 percent.

27 ~~((7))~~ (6) Upon every person engaging within this state in the
28 business of stevedoring and associated activities pertinent to the
29 movement of goods and commodities in waterborne interstate or foreign
30 commerce; as to such persons the amount of tax with respect to such
31 business is equal to the gross proceeds derived from such activities
32 multiplied by the rate of 0.275 percent. Persons subject to taxation
33 under this subsection are exempt from payment of taxes imposed by
34 chapter 82.16 RCW for that portion of their business subject to
35 taxation under this subsection. Stevedoring and associated activities
36 pertinent to the conduct of goods and commodities in waterborne
37 interstate or foreign commerce are defined as all activities of a
38 labor, service or transportation nature whereby cargo may be loaded or

1 unloaded to or from vessels or barges, passing over, onto or under a
2 wharf, pier, or similar structure; cargo may be moved to a warehouse or
3 similar holding or storage yard or area to await further movement in
4 import or export or may move to a consolidation freight station and be
5 stuffed, unstuffed, containerized, separated or otherwise segregated or
6 aggregated for delivery or loaded on any mode of transportation for
7 delivery to its consignee. Specific activities included in this
8 definition are: Wharfage, handling, loading, unloading, moving of
9 cargo to a convenient place of delivery to the consignee or a
10 convenient place for further movement to export mode; documentation
11 services in connection with the receipt, delivery, checking, care,
12 custody and control of cargo required in the transfer of cargo;
13 imported automobile handling prior to delivery to consignee; terminal
14 stevedoring and incidental vessel services, including but not limited
15 to plugging and unplugging refrigerator service to containers,
16 trailers, and other refrigerated cargo receptacles, and securing ship
17 hatch covers.

18 ~~((+8))~~ (7)(a) Upon every person engaging within this state in the
19 business of disposing of low-level waste, as defined in RCW 43.145.010;
20 as to such persons the amount of the tax with respect to such business
21 is equal to the gross income of the business, excluding any fees
22 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
23 percent.

24 (b) If the gross income of the taxpayer is attributable to
25 activities both within and without this state, the gross income
26 attributable to this state must be determined in accordance with the
27 methods of apportionment required under RCW 82.04.460.

28 ~~((+9))~~ (8) Upon every person engaging within this state as an
29 insurance producer or title insurance agent licensed under chapter
30 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as
31 to such persons, the amount of the tax with respect to such licensed
32 activities is equal to the gross income of such business multiplied by
33 the rate of 0.484 percent.

34 ~~((+10))~~ (9) Upon every person engaging within this state in
35 business as a hospital, as defined in chapter 70.41 RCW, that is
36 operated as a nonprofit corporation or by the state or any of its
37 political subdivisions, as to such persons, the amount of tax with

1 respect to such activities is equal to the gross income of the business
2 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
3 percent thereafter.

4 ~~((+11+))~~ (10)(a) Beginning October 1, 2005, upon every person
5 engaging within this state in the business of manufacturing commercial
6 airplanes, or components of such airplanes, or making sales, at retail
7 or wholesale, of commercial airplanes or components of such airplanes,
8 manufactured by the seller, as to such persons the amount of tax with
9 respect to such business ~~((is))~~, in the case of manufacturers, is equal
10 to the value of the product manufactured and the gross proceeds of
11 sales of the product manufactured, or in the case of processors for
12 hire, is equal to the gross income of the business, multiplied by the
13 rate of:

- 14 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and
- 15 (ii) 0.2904 percent beginning July 1, 2007.

16 (b) Beginning July 1, 2008, upon every person who is not eligible
17 to report under the provisions of (a) of this subsection ~~((+11+))~~ (10)
18 and is engaging within this state in the business of manufacturing
19 tooling specifically designed for use in manufacturing commercial
20 airplanes or components of such airplanes, or making sales, at retail
21 or wholesale, of such tooling manufactured by the seller, as to such
22 persons the amount of tax with respect to such business ~~((is))~~, in the
23 case of manufacturers, is equal to the value of the product
24 manufactured and the gross proceeds of sales of the product
25 manufactured, or in the case of processors for hire, ~~((be))~~ is equal to
26 the gross income of the business, multiplied by the rate of 0.2904
27 percent.

28 (c) For the purposes of this subsection ~~((+11+))~~ (10), "commercial
29 airplane" and "component" have the same meanings as provided in RCW
30 82.32.550.

31 (d) In addition to all other requirements under this title, a
32 person reporting under the tax rate provided in this subsection
33 ~~((+11+))~~ (10) must file a complete annual report with the department
34 under RCW 82.32.534.

35 (e) This subsection ~~((+11+))~~ (10) does not apply on and after July
36 1, 2024.

37 ~~((+12+))~~ (11)(a) Until July 1, 2024, upon every person engaging
38 within this state in the business of extracting timber or extracting

1 timber for hire (~~(timber)~~); as to such persons the amount of tax with
2 respect to the business (~~(is)~~), in the case of extractors, is equal to
3 the value of products, including by-products, extracted, or in the case
4 of extractors for hire, is equal to the gross income of the business,
5 multiplied by the rate of 0.4235 percent from July 1, 2006, through
6 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
7 2024.

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

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

28 (d) Until July 1, 2024, upon every person engaging within this
29 state in the business of selling standing timber; as to such persons
30 the amount of the tax with respect to the business is equal to the
31 gross income of the business multiplied by the rate of 0.2904 percent.
32 For purposes of this subsection (~~(+12+)~~) (11)(d), "selling standing
33 timber" means the sale of timber apart from the land, where the buyer
34 is required to sever the timber within thirty months from the date of
35 the original contract, regardless of the method of payment for the
36 timber and whether title to the timber transfers before, upon, or after
37 severance.

1 (e) For purposes of this subsection, the following definitions
2 apply:

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

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

18 (iii) "Recycled paper" means paper and paper products having fifty
19 percent or more of their fiber content that comes from postconsumer
20 waste. For purposes of this subsection (~~((+12+))~~) (11)(e)(iii),
21 "postconsumer waste" means a finished material that would normally be
22 disposed of as solid waste, having completed its life cycle as a
23 consumer item.

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

28 (v) "Timber products" means:

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

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

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

36 (vi) "Wood products" means paper and paper products; dimensional
37 lumber; engineered wood products such as particleboard, oriented strand

1 board, medium density fiberboard, and plywood; wood doors; wood
2 windows; and biocomposite surface products.

3 (f) Except for small harvesters as defined in RCW 84.33.035, a
4 person reporting under the tax rate provided in this subsection
5 (~~((12))~~) (11) must file a complete annual survey with the department
6 under RCW 82.32.585.

7 (~~((13))~~) (12) Upon every person engaging within this state in
8 inspecting, testing, labeling, and storing canned salmon owned by
9 another person, as to such persons, the amount of tax with respect to
10 such activities is equal to the gross income derived from such
11 activities multiplied by the rate of 0.484 percent.

12 (~~((14))~~) (13)(a) Upon every person engaging within this state in
13 the business of:

14 (i) Printing a newspaper, the amount of tax on such business is
15 equal to the value of the newspapers printed multiplied by the rate of
16 0.2904 percent;

17 (ii) Publishing a newspaper, (~~or both,~~) the amount of tax on such
18 business is equal to the gross income of the business multiplied by the
19 rate of 0.2904 percent; or

20 (iii) Selling, at retail or wholesale, newspapers that the person
21 has printed or published, the amount of tax on such business is equal
22 to the gross proceeds of sales multiplied by the rate of 0.2904
23 percent.

24 (b) For purposes of this subsection, the following definitions
25 apply:

26 (i) "Publishing" has the same meaning as in RCW 82.04.280(2)(d);
27 and

28 (ii) "Value of the newspapers" has the same meaning as "value of
29 products" in RCW 82.04.450.

30 (~~((b))~~) (c) A person reporting under the tax rate provided in this
31 subsection (~~((14))~~) (13) must file a complete annual report with the
32 department under RCW 82.32.534.

33 **Sec. 104.** RCW 82.04.280 and 2010 c 106 s 205 are each amended to
34 read as follows:

35 (1) Upon every person engaging within this state in the business
36 of: (a) (~~(Printing materials other than newspapers, and of)~~)
37 Publishing periodicals (~~or magazines~~); (b) building, repairing or

1 improving any street, place, road, highway, easement, right-of-way,
2 mass public transportation terminal or parking facility, bridge,
3 tunnel, or trestle which is owned by a municipal corporation or
4 political subdivision of the state or by the United States and which is
5 used or to be used, primarily for foot or vehicular traffic including
6 mass transportation vehicles of any kind and including any
7 readjustment, reconstruction or relocation of the facilities of any
8 public, private or cooperatively owned utility or railroad in the
9 course of such building, repairing or improving, the cost of which
10 readjustment, reconstruction, or relocation, is the responsibility of
11 the public authority whose street, place, road, highway, easement,
12 right-of-way, mass public transportation terminal or parking facility,
13 bridge, tunnel, or trestle is being built, repaired or improved; (c)
14 extracting for hire or processing for hire, except persons taxable as
15 extractors for hire or processors for hire under another section of
16 this chapter; (d) operating a cold storage warehouse or storage
17 warehouse, but not including the rental of cold storage lockers; (e)
18 representing and performing services for fire or casualty insurance
19 companies as an independent resident managing general agent licensed
20 under the provisions of chapter 48.17 RCW; (f) radio and television
21 broadcasting, excluding network, national and regional advertising
22 computed as a standard deduction based on the national average thereof
23 as annually reported by the federal communications commission, or in
24 lieu thereof by itemization by the individual broadcasting station, and
25 excluding that portion of revenue represented by the out-of-state
26 audience computed as a ratio to the station's total audience as
27 measured by the 100 micro-volt signal strength and delivery by wire, if
28 any; (g) engaging in activities which bring a person within the
29 definition of consumer contained in RCW 82.04.190(6); as to such
30 persons, the amount of tax on such business is equal to the gross
31 income of the business multiplied by the rate of 0.484 percent.

32 (2) For the purposes of this section, the following definitions
33 apply unless the context clearly requires otherwise.

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

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

11 (c) "Periodical (~~(or magazine)~~)" means a printed publication,
12 (~~(other than a newspaper)~~) including a magazine, issued regularly at
13 stated intervals at least once every three months, including any
14 supplement or special edition of the publication. "Periodical" does
15 not include a newspaper.

16 (d) "Publishing" means publishing activities other than selling
17 printed materials, and includes items such as advertising.

18 **Sec. 105.** RCW 82.04.298 and 2011 c 2 s 204 (Initiative Measure No.
19 1107) are each amended to read as follows:

20 (1) The amount of tax with respect to a qualified grocery
21 distribution cooperative's sales of groceries or related goods for
22 resale, excluding items subject to tax under (~~(RCW 82.04.260(4))~~)
23 section 101 of this act, to customer-owners of the grocery distribution
24 cooperative is equal to the gross proceeds of sales of the grocery
25 distribution cooperative multiplied by the rate of one and one-half
26 percent.

27 (2) A qualified grocery distribution cooperative is allowed a
28 deduction from the gross proceeds of sales of groceries or related
29 goods for resale, excluding items subject to tax under (~~(RCW~~
30 ~~82.04.260(4))~~) section 101 of this act, to customer-owners of the
31 grocery distribution cooperative that is equal to the portion of the
32 gross proceeds of sales for resale that represents the actual cost of
33 the merchandise sold by the grocery distribution cooperative to
34 customer-owners.

35 (3) The definitions in this subsection apply throughout this
36 section unless the context clearly requires otherwise.

1 (a) "Grocery distribution cooperative" means an entity that sells
2 groceries and related items to customer-owners of the grocery
3 distribution cooperative and has customer-owners, in the aggregate, who
4 own a majority of the outstanding ownership interests of the grocery
5 distribution cooperative or of the entity controlling the grocery
6 distribution cooperative. "Grocery distribution cooperative" includes
7 an entity that controls a grocery distribution cooperative.

8 (b) "Qualified grocery distribution cooperative" means:

9 (i) A grocery distribution cooperative that has been determined by
10 a court of record of the state of Washington to be not engaged in
11 wholesaling or making sales at wholesale, within the meaning of RCW
12 82.04.270 or any similar provision of a municipal ordinance that
13 imposes a tax on gross receipts, gross proceeds of sales, or gross
14 income, with respect to purchases made by customer-owners, and
15 subsequently changes its form of doing business to make sales at
16 wholesale of groceries or related items to its customer-owners; or

17 (ii) A grocery distribution cooperative that has acquired
18 substantially all of the assets of a grocery distribution cooperative
19 described in (b)(i) of this subsection.

20 (c) "Customer-owner" means a person who has an ownership interest
21 in a grocery distribution cooperative and purchases groceries and
22 related items at wholesale from that grocery distribution cooperative.

23 (d) "Controlling" means holding fifty percent or more of the voting
24 interests of an entity and having at least equal power to direct or
25 cause the direction of the management and policies of the entity,
26 whether through the ownership of voting securities, by contract, or
27 otherwise.

28 **Sec. 106.** RCW 82.04.440 and 2011 c 2 s 205 (Initiative Measure No.
29 1107) are each amended to read as follows:

30 (1) Every person engaged in activities that are subject to tax
31 under two or more provisions of RCW 82.04.230 through 82.04.298,
32 inclusive, is taxable under each provision applicable to those
33 activities.

34 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,
35 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), ~~((+4))~~ (10), (11), or
36 ~~((+12))~~ (13)(a)(iii), or section 101(2) of this act with respect to
37 selling products in this state, including those persons who are also

1 taxable under RCW 82.04.261, are allowed a credit against those taxes
2 for any (a) manufacturing taxes paid with respect to the manufacturing
3 of products so sold in this state, and/or (b) extracting taxes paid
4 with respect to the extracting of products so sold in this state or
5 ingredients of products so sold in this state. Extracting taxes taken
6 as credit under subsection (3) of this section may also be taken under
7 this subsection, if otherwise allowable under this subsection. The
8 amount of the credit may not exceed the tax liability arising under
9 this chapter with respect to the sale of those products. No credit may
10 be claimed under this subsection against the tax imposed under section
11 401 of this act.

12 (3) Persons taxable as manufacturers under RCW 82.04.240 or
13 82.04.260 (1)(b) or (~~(+12)~~) (11), including those persons who are also
14 taxable under RCW 82.04.261, are allowed a credit against those taxes
15 for any extracting taxes paid with respect to extracting the
16 ingredients of the products so manufactured in this state. The amount
17 of the credit may not exceed the tax liability arising under this
18 chapter with respect to the manufacturing of those products. No credit
19 may be claimed under this subsection against the tax imposed under
20 section 401 of this act.

21 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),
22 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (~~(+4)~~) (10), (11), or
23 (~~(+12)~~) (13)(a)(i), or section 101(1) of this act, including those
24 persons who are also taxable under RCW 82.04.261, with respect to
25 extracting or manufacturing products in this state are allowed a credit
26 against those taxes for any (i) gross receipts taxes paid to another
27 state with respect to the sales of the products so extracted or
28 manufactured in this state, (ii) manufacturing taxes paid with respect
29 to the manufacturing of products using ingredients so extracted in this
30 state, or (iii) manufacturing taxes paid with respect to manufacturing
31 activities completed in another state for products so manufactured in
32 this state. The amount of the credit may not exceed the tax liability
33 arising under this chapter with respect to the extraction or
34 manufacturing of those products. No credit may be claimed under this
35 subsection against the tax imposed under section 401 of this act.

36 (5) For the purpose of this section:

37 (a) "Gross receipts tax" means a tax:

1 (i) Which is imposed on or measured by the gross volume of
2 business, in terms of gross receipts or in other terms, and in the
3 determination of which the deductions allowed would not constitute the
4 tax an income tax or value added tax; and

5 (ii) Which is also not, pursuant to law or custom, separately
6 stated from the sales price.

7 (b) "State" means (i) the state of Washington, (ii) a state of the
8 United States other than Washington, or any political subdivision of
9 such other state, (iii) the District of Columbia, and (iv) any foreign
10 country or political subdivision thereof.

11 (c) "Manufacturing tax" means a gross receipts tax imposed on the
12 act or privilege of engaging in business as a manufacturer, and
13 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404,
14 82.04.2909(1), 82.04.260 (1), (2), (~~(+4)~~) (10), (11), and (~~(+12)~~)
15 (13)(a)(i), or section 101(1) of this act, and 82.04.294(1); (ii) the
16 tax imposed under RCW 82.04.261 on persons who are engaged in business
17 as a manufacturer; and (iii) similar gross receipts taxes paid to other
18 states. "Manufacturing tax" does not include the tax imposed in
19 section 401 of this act.

20 (d) "Extracting tax" means a gross receipts tax imposed on the act
21 or privilege of engaging in business as an extractor, and includes (i)
22 the tax imposed on extractors in RCW 82.04.230 and 82.04.260(~~(+12)~~)
23 (11); (ii) the tax imposed under RCW 82.04.261 on persons who are
24 engaged in business as an extractor; and (iii) similar gross receipts
25 taxes paid to other states.

26 (e) "Business", "manufacturer", "extractor", and other terms used
27 in this section have the meanings given in RCW 82.04.020 through
28 (~~(82.04.212 [82.04.217])~~) 82.04.217, notwithstanding the use of those
29 terms in the context of describing taxes imposed by other states.

30 **Sec. 107.** RCW 82.04.460 and 2011 c 174 s 203 are each amended to
31 read as follows:

32 (1) Except as otherwise provided in this section, any person
33 earning apportionable income taxable under this chapter and also
34 taxable in another state must, for the purpose of computing tax
35 liability under this chapter, apportion to this state, in accordance
36 with RCW 82.04.462, that portion of the person's apportionable income
37 derived from business activities performed within this state.

1 (2) The department must by rule provide a method of apportioning
2 the apportionable income of financial institutions, where such
3 apportionable income is taxable under RCW 82.04.290. The rule adopted
4 by the department must, to the extent feasible, be consistent with the
5 multistate tax commission's recommended formula for the apportionment
6 and allocation of net income of financial institutions as existing on
7 June 1, 2010, or such subsequent date as may be provided by the
8 department by rule, consistent with the purposes of this section,
9 except that:

10 (a) The department's rule must provide for a single factor
11 apportionment method based on the receipts factor; and

12 (b) The definition of "financial institution" contained in appendix
13 A to the multistate tax commission's recommended formula for the
14 apportionment and allocation of net income of financial institutions is
15 advisory only.

16 (3) The department may by rule provide a method or methods of
17 apportioning or allocating gross income derived from sales of
18 telecommunications service and competitive telephone service taxed
19 under this chapter, if the gross proceeds of sales subject to tax under
20 this chapter do not fairly represent the extent of the taxpayer's
21 income attributable to this state. The rule must provide for an
22 equitable and constitutionally permissible division of the tax base.

23 (4) For purposes of this section, the following definitions apply
24 unless the context clearly requires otherwise:

25 (a) "Apportionable income" means gross income of the business
26 generated from engaging in apportionable activities, including income
27 received from apportionable activities performed outside this state if
28 the income would be taxable under this chapter if received from
29 activities in this state, less the exemptions and deductions allowable
30 under this chapter. For purposes of this subsection, "apportionable
31 activities" means only those activities taxed under:

32 (i) RCW 82.04.255;

33 (ii) RCW 82.04.260 (3), (4), (5), (6), (7), (8), (9), and (12);

34 (iii) RCW 82.04.280 (1)(e);

35 (iv) RCW 82.04.285;

36 (v) RCW 82.04.286;

37 (vi) RCW 82.04.290;

38 (vii) RCW 82.04.2907;

1 (viii) RCW 82.04.2908;
2 (ix) RCW 82.04.263, but only to the extent of any activity that
3 would be taxable under any of the provisions enumerated under (a)(i)
4 through (viii) of this subsection (4) if the tax classification in RCW
5 82.04.263 did not exist; and

6 (x) RCW 82.04.260(13)(a)(ii) and 82.04.280(1)(a), but only with
7 respect to advertising.

8 (b)(i) "Taxable in another state" means that the taxpayer is
9 subject to a business activities tax by another state on its income
10 received from engaging in apportionable activities; or the taxpayer is
11 not subject to a business activities tax by another state on its income
12 received from engaging in apportionable activities, but any other state
13 has jurisdiction to subject the taxpayer to a business activities tax
14 on such income under the substantial nexus standards in RCW
15 82.04.067(1).

16 (ii) For purposes of this subsection (4)(b), "business activities
17 tax" and "state" have the same meaning as in RCW 82.04.462.

18 NEW SECTION. **Sec. 108.** A new section is added to chapter 82.04
19 RCW to read as follows:

20 (1) An eligible publisher is entitled to a credit equal to the
21 amount of manufacturing tax imposed on the publisher for printing the
22 printed material in respect to which tax is imposed on the publishing
23 of such material under RCW 82.04.260(13)(a)(ii) or 82.04.280(1)(a).
24 The amount of the credit may not exceed the amount of tax otherwise due
25 under RCW 82.04.260(13)(a)(ii) and 82.04.280(1)(a) with respect to the
26 publishing of the printed material.

27 (2) For purposes of this subsection, the following definitions
28 apply.

29 (a) "Eligible publisher" means any person that:

30 (i) Is taxable under RCW 82.04.260(13)(a)(ii) on the activity of
31 publishing a newspaper or RCW 82.04.280(1)(a) on the activity of
32 publishing a periodical;

33 (ii) Is also subject to a manufacturing tax on the activity of
34 printing such newspaper or periodical; and

35 (iii) Does not make retail or wholesale sales of such newspaper or
36 periodical.

1 (b) "Manufacturing tax" means a gross receipts tax imposed on the
2 act or privilege of engaging in business as a printer, including the
3 taxes imposed by RCW 82.04.240 and 82.04.260(13)(a)(i) and similar
4 gross receipts taxes imposed by other states.

5 **Sec. 109.** RCW 82.08.02565 and 2011 c 23 s 2 are each amended to
6 read as follows:

7 (1)(a) The tax levied by RCW 82.08.020 does not apply to sales to
8 a manufacturer or processor for hire of machinery and equipment used
9 directly in a manufacturing operation or research and development
10 operation, to sales to a person engaged in testing for a manufacturer
11 or processor for hire of machinery and equipment used directly in a
12 testing operation, or to sales of or charges made for labor and
13 services rendered in respect to installing, repairing, cleaning,
14 altering, or improving the machinery and equipment.

15 (b) Sellers making tax-exempt sales under this section must obtain
16 from the purchaser an exemption certificate in a form and manner
17 prescribed by the department by rule. The seller must retain a copy of
18 the certificate for the seller's files.

19 (2) For purposes of this section and RCW 82.12.02565:

20 (a) "Machinery and equipment" means industrial fixtures, devices,
21 and support facilities, and tangible personal property that becomes an
22 ingredient or component thereof, including repair parts and replacement
23 parts. "Machinery and equipment" includes pollution control equipment
24 installed and used in a manufacturing operation, testing operation, or
25 research and development operation to prevent air pollution, water
26 pollution, or contamination that might otherwise result from the
27 manufacturing operation, testing operation, or research and development
28 operation. "Machinery and equipment" also includes digital goods.

29 (b) "Machinery and equipment" does not include:

30 (i) Hand-powered tools;

31 (ii) Property with a useful life of less than one year;

32 (iii) Buildings, other than machinery and equipment that is
33 permanently affixed to or becomes a physical part of a building; and

34 (iv) Building fixtures that are not integral to the manufacturing
35 operation, testing operation, or research and development operation
36 that are permanently affixed to and become a physical part of a

1 building, such as utility systems for heating, ventilation, air
2 conditioning, communications, plumbing, or electrical.

3 (c) Machinery and equipment is "used directly" in a manufacturing
4 operation, testing operation, or research and development operation if
5 the machinery and equipment:

6 (i) Acts upon or interacts with an item of tangible personal
7 property;

8 (ii) Conveys, transports, handles, or temporarily stores an item of
9 tangible personal property at the manufacturing site or testing site;

10 (iii) Controls, guides, measures, verifies, aligns, regulates, or
11 tests tangible personal property at the site or away from the site;

12 (iv) Provides physical support for or access to tangible personal
13 property;

14 (v) Produces power for, or lubricates machinery and equipment;

15 (vi) Produces another item of tangible personal property for use in
16 the manufacturing operation, testing operation, or research and
17 development operation;

18 (vii) Places tangible personal property in the container, package,
19 or wrapping in which the tangible personal property is normally sold or
20 transported; or

21 (viii) Is integral to research and development as defined in RCW
22 82.63.010.

23 (d) "Manufacturer" means a person that qualifies as a manufacturer
24 under RCW 82.04.110. (~~("Manufacturer" also includes a person that
25 prints newspapers or other materials.)~~)

26 (e) "Manufacturing" means only those activities that come within
27 the definition of "to manufacture" in RCW 82.04.120 and are taxed as
28 manufacturing or processing for hire under chapter 82.04 RCW, or would
29 be taxed as such if such activity were conducted in this state or if
30 not for an exemption or deduction. (~~("Manufacturing" also includes
31 printing newspapers or other materials.)~~) An activity is not taxed as
32 manufacturing or processing for hire under chapter 82.04 RCW if the
33 activity is within the purview of chapter 82.16 RCW.

34 (f) "Manufacturing operation" means the manufacturing of articles,
35 substances, or commodities for sale as tangible personal property. A
36 manufacturing operation begins at the point where the raw materials
37 enter the manufacturing site and ends at the point where the processed
38 material leaves the manufacturing site. With respect to the production

1 of class A or exceptional quality biosolids by a wastewater treatment
2 facility, the manufacturing operation begins at the point where class
3 B biosolids undergo additional processing to achieve class A or
4 exceptional quality standards. Notwithstanding anything to the
5 contrary in this section, the term also includes that portion of a
6 cogeneration project that is used to generate power for consumption
7 within the manufacturing site of which the cogeneration project is an
8 integral part. The term does not include the preparation of food
9 products on the premises of a person selling food products at retail.

10 (g) "Cogeneration" means the simultaneous generation of electrical
11 energy and low-grade heat from the same fuel.

12 (h) "Research and development operation" means engaging in research
13 and development as defined in RCW 82.63.010 by a manufacturer or
14 processor for hire.

15 (i) "Testing" means activities performed to establish or determine
16 the properties, qualities, and limitations of tangible personal
17 property.

18 (j) "Testing operation" means the testing of tangible personal
19 property for a manufacturer or processor for hire. A testing operation
20 begins at the point where the tangible personal property enters the
21 testing site and ends at the point where the tangible personal property
22 leaves the testing site. The term also includes the testing of
23 tangible personal property for use in that portion of a cogeneration
24 project that is used to generate power for consumption within the
25 manufacturing site of which the cogeneration project is an integral
26 part. The term does not include the testing of tangible personal
27 property for use in the production of electricity by a light and power
28 business as defined in RCW 82.16.010 or the preparation of food
29 products on the premises of a person selling food products at retail.

30 **Sec. 110.** RCW 82.08.806 and 2011 c 174 s 204 are each amended to
31 read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to sales, to a
33 printer or publisher, of computer equipment, including repair parts and
34 replacement parts for such equipment, when the computer equipment is
35 used primarily in the printing or publishing of any printed material,
36 or to sales of or charges made for labor and services rendered in

1 respect to installing, repairing, cleaning, altering, or improving the
2 computer equipment. This exemption applies only to computer equipment
3 not otherwise exempt under RCW 82.08.02565.

4 (2) A person taking the exemption under this section must keep
5 records necessary for the department to verify eligibility under this
6 section. This exemption is available only when the purchaser provides
7 the seller with an exemption certificate in a form and manner
8 prescribed by the department. The seller must retain a copy of the
9 certificate for the seller's files.

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

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

13 (b) "Computer equipment" means a computer and the associated
14 physical components that constitute a computer system, including
15 monitors, keyboards, printers, modems, scanners, pointing devices, and
16 other computer peripheral equipment, cables, servers, and routers.
17 "Computer equipment" also includes digital cameras and computer
18 software.

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

20 (d) "Primarily" means greater than fifty percent as measured by
21 time.

22 (e) "Printer or publisher" means a person, as defined in RCW
23 82.04.030, who is subject to tax under RCW 82.04.240 on printing
24 materials other than newspapers, 82.04.260(13), or 82.04.280(1)(a).

25 (4) "Computer equipment" does not include computer equipment that
26 is used primarily for administrative purposes including but not limited
27 to payroll processing, accounting, customer service, telemarketing, and
28 collection. If computer equipment is used simultaneously for
29 administrative and nonadministrative purposes, the administrative use
30 must be disregarded during the period of simultaneous use for purposes
31 of determining whether the computer equipment is used primarily for
32 administrative purposes.

33 **Sec. 111.** RCW 35.102.150 and 2011 c 174 s 201 are each amended to
34 read as follows:

35 Notwithstanding RCW 35.102.130, a city that imposes a business and
36 occupation tax must allocate a person's gross income from the
37 activities of printing, and of publishing newspapers((~~τ~~)) or

1 periodicals, (~~or magazines,~~) to the principal place in this state
2 from which the taxpayer's business is directed or managed. As used in
3 this section, the activities of printing, and of publishing
4 newspapers(~~)~~ or periodicals(~~, or magazines~~) are those activities
5 to which the tax rates in RCW 82.04.260(13) and 82.04.280(1)(a) apply,
6 including the sale of newspapers or periodicals by the printer or
7 publisher of the newspaper or periodical; printing materials other than
8 newspapers; and the sale of printed material other than newspapers and
9 periodicals by the person that printed such material.

10 NEW SECTION. Sec. 112. 2010 c 106 s 206, 2009 c 461 s 3, 2006 c
11 300 s 7, and 2003 c 149 s 4 are each repealed.

12 **Sec. 113.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s 401
13 are each reenacted and amended to read as follows:

14 (1)(a) (~~Section 206, chapter 106, Laws of 2010,~~) Sections 104,
15 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010,
16 (~~section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of~~
17 2006, and section 4)) and sections 1, 2, 3, 5 through 10, and 12,
18 chapter 149, Laws of 2003 are contingent upon the siting and commercial
19 operation of a significant semiconductor microchip fabrication facility
20 in the state of Washington.

21 (b) For the purposes of this section:

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

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

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

29 (2) Sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter
30 114, Laws of 2010, and sections 1, 2, 3, 5 through 10, and 12, chapter
31 149, Laws of 2003 takes effect the first day of the month in which a
32 contract for the construction of a significant semiconductor
33 fabrication facility is signed, as determined by the director of the
34 department of revenue.

35 (3)(a) The department of revenue must provide notice of the
36 effective date of sections 104, 110, 117, 123, 125, 129, 131, and 150,

1 chapter 114, Laws of 2010(~~([,] section 3, chapter 461, Laws of 2009,~~
2 ~~section 7, chapter 300, Laws of 2006, and section 4)) and sections 1,
3 2, 3, 5 through 10, and 12, chapter 149, Laws of 2003 to affected
4 taxpayers, the legislature, and others as deemed appropriate by the
5 department.~~

6 (b) If, after making a determination that a contract has been
7 signed and sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter
8 114, Laws of 2010, and sections 1, 2, 3, 5 through 10, and 12, chapter
9 149, Laws of 2003 (~~(is)~~) are effective, the department discovers that
10 commencement of commercial production did not take place within three
11 years of the date the contract was signed, the department must make a
12 determination that sections 104, 110, 117, 123, 125, 129, 131, and 150,
13 chapter 114, Laws of 2010, and sections 1, 2, 3, 5 through 10, and 12,
14 chapter 149, Laws of 2003 (~~(is)~~) are no longer effective, and all taxes
15 that would have been otherwise due are deemed deferred taxes and are
16 immediately assessed and payable from any person reporting tax under
17 RCW 82.04.240(2) or claiming an exemption or credit under (~~(section 2~~
18 ~~or 5 through 10, chapter 149, Laws of 2003)) RCW 82.04.426, 82.04.448,
19 82.08.965, 82.08.970, 82.12.965, 82.12.970, or 84.36.645. The
20 department is not authorized to make a second determination regarding
21 the effective date of sections 104, 110, 117, 123, 125, 129, 131, and
22 150, chapter 114, Laws of 2010, and sections 1, 2, 3, 5 through 10, and
23 12, chapter 149, Laws of 2003.~~

24 PART II

25 LIMITING THE B&O TAX DEDUCTION FOR FIRST MORTGAGE INTEREST TO 26 BANKS THAT OPERATE IN FEWER THAN TEN STATES

27 **Sec. 201.** RCW 82.04.4292 and 2010 1st sp.s. c 23 s 301 are each
28 amended to read as follows:

29 (1) In computing tax there may be deducted from the measure of tax
30 by those engaged in banking, loan, security or other financial
31 businesses, interest received on investments or loans primarily secured
32 by first mortgages or trust deeds on nontransient residential
33 properties.

34 (2) Interest deductible under this section includes the portion of
35 fees charged to borrowers, including points and loan origination fees,

1 that is recognized over the life of the loan as an adjustment to yield
2 in the taxpayer's books and records according to generally accepted
3 accounting principles.

4 (3) Subsections (1) and (2) of this section notwithstanding, the
5 following is a nonexclusive list of items that are not deductible under
6 this section:

7 (a) Fees for specific services such as: Document preparation fees;
8 finder fees; brokerage fees; title examination fees; fees for credit
9 checks; notary fees; loan application fees; interest lock-in fees if
10 the loan is not made; servicing fees; and similar fees or amounts;

11 (b) Fees received in consideration for an agreement to make funds
12 available for a specific period of time at specified terms, commonly
13 referred to as commitment fees;

14 (c) Any other fees, or portion of a fee, that is not recognized
15 over the life of the loan as an adjustment to yield in the taxpayer's
16 books and records according to generally accepted accounting
17 principles;

18 (d) Gains on the sale of valuable rights such as service release
19 premiums, which are amounts received when servicing rights are sold;
20 and

21 (e) Gains on the sale of loans, except deferred loan origination
22 fees and points deductible under subsection (2) of this section, are
23 not to be considered part of the proceeds of sale of the loan.

24 (4) Notwithstanding subsection (3) of this section, in computing
25 tax there may be deducted from the measure of tax by those engaged in
26 banking, loan, security, or other financial businesses, amounts
27 received for servicing loans primarily secured by first mortgages or
28 trust deeds on nontransient residential properties, including such
29 loans that secure mortgage-backed or mortgage-related securities, but
30 only if:

31 (a)(i) The loans were originated by the person claiming a deduction
32 under this subsection (4) and that person either sold the loans on the
33 secondary market or securitized the loans and sold the securities on
34 the secondary market; or

35 (ii)(A) The person claiming a deduction under this subsection (4)
36 acquired the loans from the person that originated the loans through a
37 merger or acquisition of substantially all of the assets of the person
38 who originated the loans, or the person claiming a deduction under this

1 subsection (4) is affiliated with the person that originated the
2 loans(~~(. For purposes of this subsection, "affiliated" means under~~
3 ~~common control. "Control" means the possession, directly or~~
4 ~~indirectly, of more than fifty percent of the power to direct or cause~~
5 ~~the direction of the management and policies of a person, whether~~
6 ~~through the ownership of voting shares, by contract, or otherwise));~~
7 and

8 (B) Either the person who originated the loans or the person
9 claiming a deduction under this subsection (4) sold the loans on the
10 secondary market or securitized the loans and sold the securities on
11 the secondary market; and

12 (b) The amounts received for servicing the loans are determined by
13 a percentage of the interest paid by the borrower and are only received
14 if the borrower makes interest payments.

15 (5) The deductions provided in this section do not apply to:

16 (a) Investment conduits and securitization entities as defined in
17 RCW 82.04.650; or

18 (b) Any person that is located in more than ten states. For the
19 purposes of this subsection, a person is located in a state if:

20 (i) The person or an affiliate of the person maintains a branch,
21 office, or one or more employees or representatives in the state; and

22 (ii) Such in-state presence allows borrowers or potential borrowers
23 to contact the branch, office, employee, or representative concerning
24 the acquiring, negotiating, renegotiating, or restructuring of, or
25 making payments on, mortgages issued or to be issued by the person or
26 an affiliate of the person.

27 (6) For purposes of this section, "affiliate" means a person is
28 affiliated with another person, and "affiliated" has the same meaning
29 as in RCW 82.04.645.

30 (7) No person may claim any deduction under this section for
31 interest received on and after the effective date of any final
32 judgment, decree, or order of a court of competent jurisdiction, not
33 subject to appeal, adjudging any provision of section 201, chapter . .
34 ., Laws of 2011 2nd sp. sess. (section 201 of this act) or its
35 application to any person or circumstance as unconstitutional under
36 either the Constitution of the state or of the United States.

1 **Sec. 202.** RCW 82.04.4281 and 2007 c 54 s 9 are each amended to
2 read as follows:

3 (1) In computing tax there may be deducted from the measure of tax:

4 (a) Amounts derived from investments;

5 (b) Amounts derived as dividends or distributions from the capital
6 account by a parent from its subsidiary entities; and

7 (c) Amounts derived from interest on loans between subsidiary
8 entities and a parent entity or between subsidiaries of a common parent
9 entity, but only if the total investment and loan income is less than
10 five percent of gross receipts of the business annually.

11 (2) The following are not deductible under subsection (1)(a) of
12 this section:

13 (a) Amounts received from loans, except as provided in subsection
14 (1)(c) of this section, or the extension of credit to another,
15 revolving credit arrangements, installment sales, the acceptance of
16 payment over time for goods or services, or any of the foregoing that
17 have been transferred by the originator of the same to an affiliate of
18 the transferor; ((or))

19 (b) Amounts received by a banking, lending, or security business;
20 or

21 (c) Amounts received by investment conduits or securitization
22 entities from investments or loans primarily secured by mortgages or
23 trust deeds on real property.

24 (3) The definitions in this subsection apply only to this section.

25 (a) "Banking business" means a person engaging in business as a
26 national or state-chartered bank, a mutual savings bank, a savings and
27 loan association, a trust company, an alien bank, a foreign bank, a
28 credit union, a stock savings bank, or a similar entity that is
29 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title
30 12 U.S.C.

31 (b) "Lending business" means a person engaged in the business of
32 making secured or unsecured loans of money, or extending credit, and
33 (i) more than one-half of the person's gross income is earned from such
34 activities and (ii) more than one-half of the person's total
35 expenditures are incurred in support of such activities.

36 (c) The terms "loan" and "extension of credit" do not include
37 ownership of or trading in publicly traded debt instruments, or
38 substantially equivalent instruments offered in a private placement.

1 (d) "Security business" means a person, other than an issuer, who
2 is engaged in the business of effecting transactions in securities as
3 a broker, dealer, or broker-dealer, as those terms are defined in the
4 securities act of Washington, chapter 21.20 RCW, or the federal
5 securities act of 1933. "Security business" does not include any
6 company excluded from the definition of broker or dealer under the
7 federal investment company act of 1940 or any entity that is not an
8 investment company by reason of sections 3(c)(1) and 3(c)(3) through
9 3(c)(14) thereof.

10 (e) "Investment conduits" and "securitization entities" have the
11 same meaning as in RCW 82.04.650.

12 **Sec. 203.** RCW 82.04.650 and 2010 1st sp.s. c 23 s 111 are each
13 amended to read as follows:

14 (1) This chapter does not apply to amounts received by investment
15 conduits or securitization entities from cash and securities.

16 (2) For purposes of this section, the following definitions apply:

17 (a) "Investment conduit" means an entity formed by a financial
18 institution as defined in RCW 82.04.080 for the express purpose of
19 holding or owning cash or securities if the entity formed:

20 (i) Has no employees;

21 (ii) Has no direct profit-making motive;

22 (iii) Owns no tangible assets, other than cash or securities;

23 (iv) Holds or owns cash or securities solely as a conduit,
24 allocating its income to holders of its ownership interests; and

25 (v) Has, within twelve months of its organization or initial
26 capitalization date, issued ownership interests to other than
27 affiliated persons, equal to or greater than twenty-five percent of its
28 total issued ownership interests.

29 (b) "Securities" has the same meaning as in section 2 of the
30 securities act of 1933 and includes eligible assets as defined by Rule
31 3a-7 of the investment company act, as the law and rule exist on June
32 1, 2010, or such subsequent date as may be provided by the department
33 by rule, consistent with the purposes of this section. Securities do
34 not include investments directly or indirectly secured primarily by
35 real property, including but not limited to mortgages, trust deeds,
36 mortgage backed securities, and collateralized mortgage obligations.

1 (c) "Securitization entity" means an entity created by a bank
2 holding company if the entity created:

3 (i) Has no employees;

4 (ii) Has no direct profit-making motive;

5 (iii) Owns no tangible assets, other than cash, fixed or revolving
6 discrete pools of credit or charge card receivables originated by a
7 financial institution, or securities;

8 (iv) Acts solely as a conduit, allocating its income to holders of
9 its ownership interests; and

10 (v) Has as its sole business activities the:

11 (A) Acquisition of such discrete pools of credit or charge card
12 receivables; and

13 (B) Issuance or causing the issuance of securities primarily to
14 persons not affiliated with the entity.

15 (d) "Bank holding company" has the same meaning as provided in the
16 bank holding company act of 1956, as existing on June 1, 2010, or such
17 subsequent date as may be provided by the department by rule,
18 consistent with the purposes of this section.

19 (e) "No direct profit-making motive" means that all of an entity's
20 income, less a reasonable servicing fee, is paid to holders of its
21 ownership interests.

22 (f) "Ownership interest" means interests categorized as debt or
23 equity for purposes of federal tax or generally accepted accounting
24 principles.

25 (g) "Affiliated" has the same meaning as in RCW 82.04.645.

26 **PART III**

27 **CLOSING NONRESIDENT MANUFACTURER B&O TAX LOOPHOLE**

28 **Sec. 301.** RCW 82.04.110 and 2009 c 535 s 405 are each amended to
29 read as follows:

30 (1) Except as otherwise provided in this section, "manufacturer"
31 means every person who, either directly or by contracting with others
32 for the necessary labor or mechanical services, manufactures for sale
33 or for commercial or industrial use from his or her own materials or
34 ingredients any articles, substances, or commodities.

35 (2)(a) When the owner of equipment or facilities furnishes, or
36 sells to the customer prior to manufacture, all or a portion of the

1 materials that become a part or whole of the manufactured article, the
2 department (~~shall~~) must prescribe equitable rules for determining tax
3 liability.

4 (b) A person who produces aluminum master alloys is a processor for
5 hire rather than a manufacturer, regardless of the portion of the
6 aluminum provided by that person's customer. For the purposes of this
7 subsection (2)(b), "aluminum master alloy" means an alloy registered
8 with the aluminum association as a grain refiner or a hardener alloy
9 using the American national standards institute designating system
10 H35.3.

11 (3) Except as provided in subsection (5) of this section, a
12 nonresident of this state who is the owner of materials processed for
13 it in this state by a processor for hire (~~shall~~) is not (~~be~~) deemed
14 to be engaged in business in this state as a manufacturer because of
15 the performance of such processing work for it in this state.

16 (4) Except as provided in subsection (5) of this section, the owner
17 of materials from which a nuclear fuel assembly is made for it by a
18 processor for hire (~~shall~~) is not (~~be~~) subject to tax under this
19 chapter as a manufacturer of the fuel assembly.

20 (5) A nonresident of this state who is the owner of materials
21 processed for it in this state or from which a nuclear fuel assembly is
22 made for it in this state, by a processor for hire, is engaged within
23 this state in business as a manufacturer if the nonresident owner of
24 the materials and processor for hire are affiliated. For purposes of
25 this subsection, "affiliated" has the same meaning as in RCW 82.04.645.

26 (6) For purposes of this section, the terms "articles,"
27 "substances," "materials," "ingredients," and "commodities" do not
28 include digital goods.

29 PART IV

30 B&O SURTAX ON PETROLEUM REFINERS THAT GENERATE SUBSTANTIAL 31 PROFITS

32 NEW SECTION. Sec. 401. A new section is added to chapter 82.04
33 RCW to read as follows:

34 (1) Beginning July 1, 2012, an additional tax is imposed on every
35 person engaging within this state as a specified petroleum business.
36 The tax equals the taxable amounts required to be reported on the state

1 combined excise tax return for wholesale sales and for all
2 manufacturing activities subject to tax under this chapter, multiplied
3 by the rate of 0.60 percent. The tax imposed in this section is in
4 addition to the tax imposed under any other provision of this chapter
5 on the same wholesale sales and manufacturing activities. The credits
6 provided in RCW 82.04.440 do not apply to the tax imposed in this
7 section.

8 (2) The additional tax imposed under subsection (1) of this section
9 applies during every twelve-month period beginning six months following
10 any tax year in which a taxpayer qualifies as a specified petroleum
11 business.

12 (3) For purposes of this section, the following definitions apply:

13 (a) "Specified petroleum business" means a petroleum business that
14 is a member of a consolidated group that:

15 (i) Reported annual net income for a tax year of at least one
16 billion dollars; and

17 (ii) The annual net income for that tax year was five percent or
18 more of total revenue reported for federal income tax purposes for that
19 tax year.

20 (b) "Consolidated group" means all petroleum businesses whose
21 income is reported on a consolidated basis to the federal internal
22 revenue service and may include a single entity.

23 (c) "Tax year" means the tax year used by the consolidated group to
24 report its income to the federal internal revenue service.

25 (d) "Petroleum business" means a person in the business of refining
26 crude oil into refined petroleum products by fractionation, straight
27 distillation, cracking, or similar methods.

28 (e) "Annual net income" is the amount subject to income tax as
29 reported on the annual return filed with the federal internal revenue
30 service.

31 (4) The department may adopt rules under chapter 34.05 RCW for the
32 administration and enforcement of this section. The rules, to the
33 extent possible without being inconsistent with this section, must
34 follow the internal revenue code and the regulations and rulings of the
35 United States department of the treasury with respect to the federal
36 income tax. The department may adopt as a part of these rules any
37 portions of the internal revenue code and treasury department
38 regulations and rulings, in whole or in part.

1 NEW SECTION. **Sec. 402.** Section 401 of this act applies to
2 business activities engaged in within this state after June 30, 2012.

3 **PART V**
4 **B&O SURTAX ON FINANCIAL BUSINESSES THAT GENERATE**
5 **SUBSTANTIAL PROFITS**

6 NEW SECTION. **Sec. 501.** A new section is added to chapter 82.04
7 RCW to read as follows:

8 (1) Beginning July 1, 2012, an additional tax is imposed on every
9 person engaging within this state in business as a specified financial
10 business. The tax equals the taxable amount required to be reported on
11 the state combined excise tax return for activities taxable under RCW
12 82.04.290 multiplied by the rate of 1.5 percent. The tax imposed in
13 this section is in addition to the tax imposed by RCW 82.04.290 on the
14 same activities.

15 (2) The additional tax imposed by subsection (1) of this section
16 applies during the twelve-month period beginning July 1st immediately
17 following any calendar year in which a financial business qualifies as
18 a specified financial business.

19 (3) For the purposes of this section, the following definitions
20 apply:

21 (a) "Specified financial business" means a financial business that
22 is a member of a consolidated financial business group that on its
23 consolidated financial statement for a calendar year:

24 (i) Reported annual net income before taxes of at least one billion
25 dollars; and

26 (ii) The annual net income before taxes was five percent or more of
27 its total revenue for that year. The department must define "total
28 revenue" by rule in such a way that a person's total revenue can be
29 determined by reference to the person's consolidated financial
30 statement.

31 (b) "Consolidated financial statement" means the consolidated
32 financial business group's financial statements prepared according to
33 generally accepted accounting principles and filed with the federal
34 financial institutions examination council, or successor agency.

35 (c) "Consolidated financial business group" means all financial

1 businesses that are affiliated. For purposes of this subsection,
2 "affiliated" has the same meaning as in RCW 82.04.645.

3 (d) "Financial business" means any person who is:

4 (i) Chartered under Title 30, 31, 32, or 33 RCW;

5 (ii) Registered under the federal bank holding company act of 1956;

6 (iii) Registered as a savings and loan holding company under the
7 national bank act;

8 (iv) Organized as a national bank association pursuant to the
9 national bank act;

10 (v) A savings association or federal savings bank as defined in the
11 federal deposit insurance act;

12 (vi) A bank or thrift institution incorporated or organized under
13 the laws of any state;

14 (vii) Organized under the provisions of 12 U.S.C. Secs. 611 through
15 631;

16 (viii) An agency or branch of a foreign depository as defined in 12
17 U.S.C. Sec. 3101;

18 (ix) A credit union; or

19 (x) A production credit association organized under the federal
20 farm credit act of 1933.

21 NEW SECTION. **Sec. 502.** Section 501 of this act applies to
22 business activities engaged in within this state after June 30, 2012.

23 **PART VI**

24 **LUXURY TAX ON EXPENSIVE PASSENGER MOTOR VEHICLES**

25 **Sec. 601.** RCW 82.08.020 and 2011 c 171 s 120 are each amended to
26 read as follows:

27 (1) There is levied and collected a tax equal to six and five-
28 tenths percent of the selling price on each retail sale in this state
29 of:

30 (a) Tangible personal property, unless the sale is specifically
31 excluded from the RCW 82.04.050 definition of retail sale;

32 (b) Digital goods, digital codes, and digital automated services,
33 if the sale is included within the RCW 82.04.050 definition of retail
34 sale;

1 (c) Services, other than digital automated services, included
2 within the RCW 82.04.050 definition of retail sale;

3 (d) Extended warranties to consumers; and

4 (e) Anything else, the sale of which is included within the RCW
5 82.04.050 definition of retail sale.

6 (2) There is levied and collected an additional tax on each retail
7 car rental, regardless of whether the vehicle is licensed in this
8 state, equal to five and nine-tenths percent of the selling price. The
9 revenue collected under this subsection must be deposited in the
10 multimodal transportation account created in RCW 47.66.070.

11 (3)(a) Beginning July 1, 2003, there is levied and collected an
12 additional tax of three-tenths of one percent of the selling price on
13 each retail sale of a motor vehicle in this state, other than retail
14 car rentals taxed under subsection (2) of this section. The revenue
15 collected under this subsection must be deposited in the multimodal
16 transportation account created in RCW 47.66.070.

17 ((+4)) (b) For purposes of this subsection (3) (~~of this~~
18 ~~section~~), "motor vehicle" has the meaning provided in RCW 46.04.320,
19 but does not include farm tractors or farm vehicles as defined in RCW
20 46.04.180 and 46.04.181, off-road vehicles as defined in RCW 46.04.365,
21 nonhighway vehicles as defined in RCW 46.09.310, and snowmobiles as
22 defined in RCW 46.04.546.

23 (4)(a) In addition to the taxes imposed in subsections (1) and (3)
24 of this section, there is levied and collected a tax equal to five
25 percent of the selling price of a passenger motor vehicle if:

26 (i) The selling price of the passenger motor vehicle exceeds fifty
27 thousand dollars; or

28 (ii) In the case of a lease requiring periodic payments, the fair
29 market value of the passenger motor vehicle, without any deduction for
30 the value of separately stated trade-in property of like kind, exceeds
31 fifty thousand dollars at the inception of the lease.

32 (b) The additional tax imposed in this subsection applies
33 regardless of whether the vehicle is used for personal, business, or
34 other purposes.

35 (c) For purposes of this subsection, "passenger motor vehicle"
36 means any motor vehicle that is designed for carrying ten passengers or
37 fewer, including cars, light trucks, limousines, motorcycles, motor

1 homes, passenger vans, and sport utility vehicles. For purposes of
2 this subsection (4)(c), the definitions in chapter 46.04 RCW apply.

3 (d) For purposes of the tax imposed in this subsection only,
4 "selling price" has the same meaning as in RCW 82.08.010 except that no
5 deduction may be made for the value of separately stated trade-in
6 property of like kind.

7 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
8 collected under subsection (1) of this section must be dedicated to
9 funding comprehensive performance audits required under RCW 43.09.470.
10 The revenue identified in this subsection must be deposited in the
11 performance audits of government account created in RCW 43.09.475.

12 (6) The taxes imposed under this chapter apply to successive retail
13 sales of the same property.

14 (7) The rates provided in this section apply to taxes imposed under
15 chapter 82.12 RCW as provided in RCW 82.12.020.

16 **Sec. 602.** RCW 82.12.020 and 2010 1st sp.s. c 23 s 206 are each
17 amended to read as follows:

18 (1) There is levied and collected from every person in this state
19 a tax or excise for the privilege of using within this state as a
20 consumer any:

21 (a) Article of tangible personal property acquired by the user in
22 any manner, including tangible personal property acquired at a casual
23 or isolated sale, and including by-products used by the manufacturer
24 thereof, except as otherwise provided in this chapter, irrespective of
25 whether the article or similar articles are manufactured or are
26 available for purchase within this state;

27 (b) Prewritten computer software, regardless of the method of
28 delivery, but excluding prewritten computer software that is either
29 provided free of charge or is provided for temporary use in viewing
30 information, or both;

31 (c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or
32 (g), (3)(a), or (6)(b), excluding services defined as a retail sale in
33 RCW 82.04.050(6)(b) that are provided free of charge;

34 (d) Extended warranty; or

35 (e)(i) Digital good, digital code, or digital automated service,
36 including the use of any services provided by a seller exclusively in

1 connection with digital goods, digital codes, or digital automated
2 services, whether or not a separate charge is made for such services.

3 (ii) With respect to the use of digital goods, digital automated
4 services, and digital codes acquired by purchase, the tax imposed in
5 this subsection (1)(e) applies in respect to:

6 (A) Sales in which the seller has granted the purchaser the right
7 of permanent use;

8 (B) Sales in which the seller has granted the purchaser a right of
9 use that is less than permanent;

10 (C) Sales in which the purchaser is not obligated to make continued
11 payment as a condition of the sale; and

12 (D) Sales in which the purchaser is obligated to make continued
13 payment as a condition of the sale.

14 (iii) With respect to digital goods, digital automated services,
15 and digital codes acquired other than by purchase, the tax imposed in
16 this subsection (1)(e) applies regardless of whether or not the
17 consumer has a right of permanent use or is obligated to make continued
18 payment as a condition of use.

19 (2) The provisions of this chapter do not apply in respect to the
20 use of any article of tangible personal property, extended warranty,
21 digital good, digital code, digital automated service, or service
22 taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), if the
23 sale to, or the use by, the present user or the present user's bailor
24 or donor has already been subjected to the tax under chapter 82.08 RCW
25 or this chapter and the tax has been paid by the present user or by the
26 present user's bailor or donor.

27 (3)(a) Except as provided in this section, payment of the tax
28 imposed by this chapter or chapter 82.08 RCW by one purchaser or user
29 of tangible personal property, extended warranty, digital good, digital
30 code, digital automated service, or other service does not have the
31 effect of exempting any other purchaser or user of the same property,
32 extended warranty, digital good, digital code, digital automated
33 service, or other service from the taxes imposed by such chapters.

34 (b) The tax imposed by this chapter does not apply:

35 (i) If the sale to, or the use by, the present user or his or her
36 bailor or donor has already been subjected to the tax under chapter
37 82.08 RCW or this chapter and the tax has been paid by the present user
38 or by his or her bailor or donor;

1 (ii) In respect to the use of any article of tangible personal
2 property acquired by bailment and the tax has once been paid based on
3 reasonable rental as determined by RCW 82.12.060 measured by the value
4 of the article at time of first use multiplied by the tax rate imposed
5 by chapter 82.08 RCW or this chapter as of the time of first use;

6 (iii) In respect to the use of any article of tangible personal
7 property acquired by bailment, if the property was acquired by a
8 previous bailee from the same bailor for use in the same general
9 activity and the original bailment was prior to June 9, 1961; or

10 (iv) To the use of digital goods or digital automated services,
11 which were obtained through the use of a digital code, if the sale of
12 the digital code to, or the use of the digital code by, the present
13 user or the present user's bailor or donor has already been subjected
14 to the tax under chapter 82.08 RCW or this chapter and the tax has been
15 paid by the present user or by the present user's bailor or donor.

16 (4)(a) Except as otherwise provided in (~~(b) of this subsection~~
17 ~~(4))~~ this section, the tax is levied and must be collected in an
18 amount equal to the value of the article used, value of the digital
19 good or digital code used, value of the extended warranty used, or
20 value of the service used by the taxpayer, multiplied by the applicable
21 rates in effect for the retail sales tax under RCW 82.08.020.

22 (b) In the case of a seller required to collect use tax from the
23 purchaser, the tax must be collected in an amount equal to the purchase
24 price multiplied by the applicable rate in effect for the retail sales
25 tax under RCW 82.08.020.

26 (5) For purposes of the tax imposed in this section, "person"
27 includes anyone within the definition of "buyer," "purchaser," and
28 "consumer" in RCW 82.08.010.

29 (6)(a) The tax imposed in this section at the rate provided in RCW
30 82.08.020(4) applies to the use of a passenger motor vehicle as defined
31 in RCW 82.08.020(4) if the value of the passenger motor vehicle exceeds
32 fifty thousand dollars at the time that it is first used in this state
33 by the consumer.

34 (b) The measure of the tax imposed in this section at the rate
35 provided in RCW 82.08.020(4) is the value of the passenger motor
36 vehicle.

37 (c) "Value of the passenger motor vehicle" means the fair market
38 value of the passenger motor vehicle, which must be determined without

1 any deduction for separately stated trade-in property of like kind. In
2 the case of a leased passenger motor vehicle in which the consumer is
3 required to make periodic lease payments, "value of the passenger motor
4 vehicle" means the fair market value of the passenger motor vehicle at
5 the inception of the lease.

6 NEW SECTION. Sec. 603. The additional sales and use tax imposed
7 in sections 601 and 602 of this act applies only to passenger motor
8 vehicles acquired by the taxpayer on and after the effective date of
9 this section. In the case of leased passenger motor vehicles, the
10 additional sales and use tax imposed in sections 601 and 602 of this
11 act applies only with respect to leases entered into by the taxpayer on
12 or after the effective date of this section.

13 **PART VII**
14 **REPEALING THE NONRESIDENT SALES TAX EXEMPTION**

15 NEW SECTION. Sec. 701. RCW 82.08.0273 (Exemptions--Sales to
16 nonresidents of tangible personal property, digital goods, and digital
17 codes for use outside the state--Proof of nonresident status--
18 Penalties) and 2011 c 7 s 1, 2010 c 106 s 215, 2009 c 535 s 512, 2007
19 c 135 s 2, 2003 c 53 s 399, 1993 c 444 s 1, 1988 c 96 s 1, 1982 1st
20 ex.s. c 5 s 1, & 1980 c 37 s 39 are each repealed.

21 NEW SECTION. Sec. 702. The repeal in section 701 of this act does
22 not affect any existing right acquired or liability or obligation
23 incurred under the statute repealed or under any rule or order adopted
24 under that statute nor does it affect any proceedings instituted under
25 it.

26 **PART VIII**
27 **CIGARETTE TAX INCREASE**

28 **Sec. 801.** RCW 82.24.026 and 2011 c 334 s 1 are each amended to
29 read as follows:

30 (1) In addition to the tax imposed upon the sale, use, consumption,
31 handling, possession, or distribution of cigarettes set forth in RCW
32 82.24.020, there is imposed a tax in an amount equal to:

1 (a) Three cents per cigarette; and

2 (b) Beginning July 1, 2012, one and twenty-five hundredths cent per
3 cigarette.

4 ~~((Beginning July 1, 2010,))~~ (2) The revenue collected under this
5 section must be deposited into the general fund.

6 **PART IX**

7 **GAMBLING WINNINGS TAX**

8 NEW SECTION. **Sec. 901.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Department" means the department of revenue.

11 (2) "Gambling activity" means the risking of any money or other
12 thing of value for gain contingent in whole or in part upon lot,
13 chance, the operating of a gambling device, or the happening or outcome
14 of a sporting or other event. The term includes, but is not limited
15 to, lotteries, bingo, slot machines, video lottery terminals, keno,
16 poker, horse racing, dog racing, Jai Alai, sweepstakes, raffles, pull-
17 tabs, scratch tickets, wagering pools, sports betting, poker
18 tournaments, parimutuel wagering, and any other wagering, betting, or
19 gaming activities. An activity may be a "gambling activity" regardless
20 of the medium used to conduct the activity, which can include, but is
21 not limited to, activities conducted at a physical location, through
22 the internet, over the phone, or by mail. "Gambling activity" does not
23 include bona fide contests of skill, speed, strength, or endurance in
24 which awards are made only to entrants or the owners of entries and
25 bona fide business or financial transactions.

26 (3) "Gambling operator" means any person that conducts a gambling
27 activity.

28 (4) "Gross winnings" means the gross income received from engaging
29 in any gambling activity without deduction for gambling activity losses
30 or any other expenses. Gross winnings include amounts received whether
31 paid in cash, cash equivalent, or noncash form of remuneration or
32 prize, including real property, personal property, and services. Real
33 property, personal property, and services must be valued at fair market
34 value. Gross winnings include amounts paid in a lump sum or structured
35 as an annuity paid over time.

36 (5) "Nonresident" means:

1 (a) With respect to natural persons, an individual whose domicile
2 is not in this state and who does not reside in this state for more
3 than one hundred eighty-three days during the tax year; and

4 (b) With respect to entities, a person who is domiciled outside
5 this state. For purposes of this subsection (5)(b), an entity will be
6 considered to be domiciled outside this state if the principal place
7 from which the entity is directed or managed is located outside this
8 state.

9 (6) "Person" means any individual, receiver, administrator,
10 executor, assignee, trustee in bankruptcy, trust, estate, firm,
11 copartnership, joint venture, club, company, joint stock company,
12 business trust, municipal corporation, corporation, limited liability
13 company, association, society, or any group of individuals acting as a
14 unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise;
15 this or any other state of the United States; any commonwealth,
16 territory, or possession of the United States; the District of
17 Columbia; and any foreign country or political subdivision of a foreign
18 country. The term "person" may be construed to include federally
19 recognized Indian tribes only where the context clearly requires such
20 a construction.

21 (7) "Reportable winnings" means gross winnings that are required to
22 be reported by the gambling operator to the United States internal
23 revenue service for income tax purposes on Form W-2G or similar form.

24 (8) "Resident" means:

25 (a) With respect to natural persons, an individual whose domicile
26 is in this state or whose domicile is not in this state but who resides
27 in this state for more than one hundred eighty-three days during the
28 tax year; and

29 (b) With respect to entities, a person who is domiciled in this
30 state. For purposes of this subsection (8)(b), an entity will be
31 considered to be domiciled in this state if the principal place from
32 which the entity is directed or managed is located in this state.

33 (9) "Responsible person" means a gambling operator that is
34 responsible for paying gross winnings to taxpayers for gambling
35 activity conducted in Washington. "Responsible person" does not
36 include any federally recognized Indian tribe or any other person that
37 the state may not compel to withhold and remit the tax imposed by
38 section 902 of this act.

1 (10) "Taxpayer" means a resident that receives reportable winnings
2 from a gambling operator for gambling activity conducted within or
3 outside this state and a nonresident that receives reportable winnings
4 from a gambling operator for gambling activity conducted within this
5 state. If the winner is not the person receiving reportable winnings
6 from the gambling operator, the "taxpayer" is the person that received
7 the reportable winnings from the gambling operator. "Taxpayer" does
8 not include any enrolled member of a federally recognized Indian tribe
9 with respect to gross winnings received from gambling activity
10 conducted within the jurisdiction of such tribe or any other person
11 that is exempt from the tax imposed in section 902 of this act under
12 the Constitution or laws of the United States.

13 NEW SECTION. **Sec. 902.** (1) A tax is imposed on every resident
14 taxpayer for the privilege of receiving reportable winnings from
15 gambling activity engaged in by the taxpayer within and outside of this
16 state. The amount of such tax is the taxpayer's reportable winnings
17 multiplied by a rate of one and one-half percent.

18 (2) A tax is imposed on every nonresident taxpayer for the
19 privilege of receiving reportable winnings from gambling activity
20 engaged in within this state. The amount of such tax is the taxpayer's
21 reportable winnings from gambling activity engaged in within this state
22 multiplied by a rate of one and one-half percent.

23 NEW SECTION. **Sec. 903.** (1) In computing the tax due under section
24 902(1) of this act, a credit is allowed for taxes legally imposed by
25 and paid by the taxpayer to any other state, with respect to the same
26 reportable winnings subject to tax under section 902(1) of this act,
27 regardless of whether the other state's tax is imposed on gross
28 winnings or allows for deductions for gambling losses or gambling
29 expenses.

30 (2) The credit under this section may not exceed the amount of tax
31 otherwise due under section 902(1) of this act.

32 (3) For purposes of this section, "state" means a state,
33 possession, territory, or commonwealth of the United States other than
34 the state of Washington; a political subdivision of such other state,
35 possession, territory, or commonwealth of the United States; the

1 District of Columbia; or any foreign country or political subdivision
2 of a foreign country.

3 NEW SECTION. **Sec. 904.** The tax imposed by section 902 of this act
4 does not apply to any amounts that the state is prohibited from taxing
5 under the Constitution of this state or the Constitution or laws of the
6 United States.

7 NEW SECTION. **Sec. 905.** (1) Every responsible person must withhold
8 and remit to the department the tax imposed by section 902 of this act
9 on all of the reportable winnings paid by the responsible person to any
10 taxpayer for gambling activity conducted in this state.

11 (2) The responsible person and taxpayer are jointly and severally
12 liable for any tax that must be withheld under this section. If the
13 responsible person properly withholds the tax imposed under section 902
14 of this act, the taxpayer is relieved of liability for the tax.

15 (3) The tax required to be withheld and remitted to the department
16 under this section by responsible persons, along with returns as
17 prescribed by the department, are due monthly within twenty-five days
18 after the end of the month in which the tax imposed in section 902 of
19 this act was required to be withheld. The department may relieve any
20 responsible person or class of responsible persons from the requirement
21 to report and remit taxes monthly and may establish an alternative
22 frequency for reporting and remitting the tax as provided in RCW
23 82.32.045(2).

24 (4) In cases where no responsible person is required to withhold
25 and remit the tax due under section 902 of this act or fails to do so,
26 the taxpayer is solely liable for reporting and paying the tax to the
27 department.

28 (5) The department may require responsible persons to file returns
29 and remit taxes electronically in accordance with RCW 82.32.080 and
30 82.32.085.

31 (6) The tax withheld by a responsible person as required by this
32 section is held in trust by the responsible person until paid to the
33 department. Any responsible person that appropriates or converts
34 withheld taxes to the responsible person's own use or to any use other
35 than the payment of the tax to the extent that the taxes withheld are

1 not available for payment on the due date as prescribed in this chapter
2 is guilty of a gross misdemeanor.

3 (7)(a) If any responsible person does not withhold the tax imposed
4 in this chapter as required by this section, or having withheld the
5 tax, fails to pay it to the department in the manner prescribed by this
6 chapter, whether such failure is the result of the responsible person's
7 own acts or the result of acts or conditions beyond the responsible
8 person's control, the responsible person is, nevertheless, personally
9 liable for the amount of the tax, including any applicable penalties
10 and interest assessed on those taxes under chapter 82.32 RCW.

11 (b) Personal liability under this subsection for withheld taxes,
12 including penalties and interest, also extends to any employee,
13 officer, or agent of the responsible person that had supervision of
14 taxes withheld as required by this section or the authority, whether
15 express or implied, to ensure that withheld taxes were remitted to the
16 department. The department may issue an assessment under this
17 subsection (7)(b) to an individual only if the responsible person is a
18 limited liability business entity and has been terminated, dissolved,
19 abandoned, or is insolvent. For purposes of this section, the
20 definitions and presumptions in RCW 82.32.145 apply.

21 NEW SECTION. **Sec. 906.** (1) Taxpayers are required to report tax
22 liability incurred under section 902 of this act on returns as
23 prescribed by the department and remit any tax due no later than
24 January 31st of the year immediately following the tax year covered by
25 the return. The department may, in its sole discretion, relieve
26 taxpayers of the responsibility to file returns if the full amount of
27 tax due on their reportable winnings was withheld by one or more
28 responsible parties.

29 (2) The department may require taxpayers to file returns and remit
30 taxes electronically in accordance with RCW 82.32.080 and 82.32.085.

31 (3) If a taxpayer fails to report and pay the tax imposed in
32 section 902 of this act by the due date or any extension granted by the
33 department, the department must assess a penalty of twenty-five percent
34 of the tax due under section 902 of this act. This penalty is in
35 addition to any applicable penalties imposed in RCW 82.32.090.

