## HOUSE BILL 2766

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Liias, Hunt, Santos, Jinkins, Sells, Haigh, Pollet, Fitzgibbon, Reykdal, Cody, McCoy, Appleton, Dickerson, Dunshee, Kenney, Darneille, Pettigrew, Kagi, Hudgins, Orwall, Upthegrove, Tharinger, and Roberts

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- AN ACT Relating to guaranteeing that the top one percent pay too, through assessing a two percent tax on millionaires to fund the paramount duty trust fund and reduce class sizes in grades kindergarten through four; and adding a new chapter to Title 82 RCW.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 6 PART I
- 7 GENERAL PROVISIONS
- NEW SECTION. Sec. 101. INTENT. It is the intent of the legislature to ensure that the top one percent of citizens in our state contribute to sustain the paramount duty of the state to educate our children by requiring these wealthiest, those who have benefited
- 12 greatly in this great recession, to pay their fair share through a two

percent marginal tax on annual income exceeding one million dollars.

14 PART II

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- 15 ENSURING THE TOP ONE PERCENT PAY TOO
- 16 TAXING ANNUAL INCOME OVER ONE MILLION DOLLARS TO FUND THE

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NEW SECTION. Sec. 201. EXCISE TAX IMPOSED--RATES. An excise tax is imposed on the receipt of adjusted gross income above one million dollars by residents or qualifying nonresidents deriving income from sources within the state. The rate of the tax is as follows: Adjusted gross income in excess of one million dollars is taxed at two percent.

NEW SECTION. Sec. 202. THE PARAMOUNT DUTY TRUST FUND. (1) A new state trust fund is hereby established dedicated to meeting the paramount duty for the education of all children. This trust is funded by the excise tax assessed under this chapter.

- (2) Revenue received by the trust must be devoted to education, with the first priority being classroom size reduction in kindergarten through fourth grade. In no case may this new revenue be used to supplant current funding for these services.
- (3) The office of financial management must prepare an annual audit of the funds deposited in the paramount duty trust fund, reporting on how funds have been spent, determining if the intent of reducing class size has been met, and estimating the number of children benefited, as well as all state residents benefited, and public and private jobs created and/or maintained, including the multiplier effects of public expenditures. Monthly disclosure of tax collection and spending under this chapter must be posted on a web site maintained by the treasurer and the office of financial management and such disclosure must, at a minimum, include the information set forth in RCW 43.08.150.

NEW SECTION. Sec. 203. ABSOLUTE TAX THRESHOLD. It is the mandate of this chapter that in no event may excise tax be levied upon adjusted gross income below one million dollars. No provision of this chapter allows the imposition of tax upon adjusted gross income below one million dollars.

30 PART III

## RULE MAKING AND ADMINISTRATIVE PROVISIONS

NEW SECTION. Sec. 301. SIMPLIFICATION AND PAPERWORK REDUCTION.
To reduce administrative burden to taxpayers and state government, the
department must, to the greatest extent possible, administer the tax

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- 1 assessed under this chapter in a manner that is consistent with the
- 2 federal income tax system and utilizing documents that taxpayers
- 3 already must prepare as part of their federal tax filings.

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- NEW SECTION. Sec. 302. RULE MAKING. (1)(a) The department must adopt rules under chapter 34.05 RCW for the administration and enforcement of this chapter, including:
  - (i) A phase-in for fiscal year taxpayers, required methods of accounting, and time of payment of tax deducted and withheld under this chapter;
- 10 (ii) Time and manner of making returns, extensions of time for 11 filing returns, verification of returns, and the time when a return is 12 deemed filed;
- (iii) Filing requirements, including forms, due dates, extensions, and joint returns;
- 15 (iv) Recordkeeping and inspection and estimated tax and 16 withholding;
  - (v) Liability of transferee's imposition of penalties and accrual of interest for late returns, credit for income taxes due to another jurisdiction, and dual residency; and
    - (vi) Any other matters that the department deems appropriate.
  - (b) The rules adopted under this section, to the extent possible without being inconsistent with this chapter, must follow the internal revenue code and the regulations and rulings of the United States treasury department with respect to the federal income tax.
  - (2) The department may adopt as a part of these rules any portions of the internal revenue code and treasury department regulations and rulings, in whole or in part, including rules that impose interest and penalties, but the amount of such interest and penalties must be set by the department. Modifications of the federal rules may be made if reasonably necessary to facilitate the prompt, efficient, and equitable implementation of this chapter.
- NEW SECTION. Sec. 303. IMPLEMENTATION. The department must take actions and adopt rules, forms, and procedures to implement this chapter consistently with RCW 26.60.015, notwithstanding any term or provision of this chapter, except section 203 of this act.

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- NEW SECTION. Sec. 304. REFUNDS OF OVERPAYMENTS--OTHER ADMINISTRATIVE PROVISIONS. (1) The department must refund all taxes improperly paid or collected.
- 4 (2) The following sections apply to the administration of taxes 5 imposed under this chapter: RCW 82.32.020, 82.32.050, 82.32.060, 6 82.32.070, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.120, 7 82.32.130, 82.32.140, 82.32.150, 82.32.160, 82.32.170, 82.32.180,
- 8 82.32.190, 82.32.200, 82.32.210, 82.32.220, 82.32.230, 82.32.235,
- 9 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.290, 82.32.300,
- 10 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, and
- 11 82.32.380.
- 12 <u>NEW SECTION.</u> **Sec. 305.** APPEALS. The board of tax appeals has
- 13 jurisdiction over appeals relating to tax deficiencies and refunds,
- 14 including penalties and interest, pursuant to this chapter. The
- 15 taxpayer may elect a formal or informal hearing pursuant to RCW
- 16 82.03.140.

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- 17 PART IV
- 18 APPORTIONMENT AND ALLOCATION OF INCOME
- 19 <u>NEW SECTION.</u> **Sec. 401.** APPORTIONMENT AND ALLOCATION OF INCOME.
- 20 (1) For resident individuals, all income must be apportioned and 21 allocated to this state.
- 22 (2) For nonresident individuals, income derived from sources within 23 this state must be apportioned and allocated to this state.
  - (3) For purposes of this chapter:
    - (a) The adjusted gross income of a nonresident derived from sources within this state is the net amount of items of income, gain, loss, and deduction of the nonresident's adjusted gross income that are derived from or connected with sources in this state.
  - (b) Items of income, gain, loss, and deduction derived from or connected with sources within this state are those items attributable to the ownership or disposition of any interest in real or tangible personal property in this state, and a business, trade, profession, or occupation carried on within this state. The department must issue rules to provide consistency of this section with other excise tax provisions.

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- (c) Deduction with respect to expenses, capital losses, and net operating losses must be based solely on income, gains, losses, and deductions derived from or connected with sources in this state but shall otherwise be determined in the same manner as the corresponding federal deduction except as provided in this chapter.
- (d) Compensation paid by the United States for service in the armed forces of the United States performed in this state by a nonresident does not constitute income derived from sources within this state.
- (e) If a business, trade, profession, or occupation is carried on partly within and partly without this state, the determination of net income derived or connected with sources within this state as provided in this section must be made by apportionment and allocation under chapter 82.56 RCW.

14 PART V

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15 **DEFINITIONS** 

- NEW SECTION. Sec. 501. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.
- 19 (1) "Adjusted gross income" means adjusted gross income as 20 determined under the federal internal revenue code.
  - (2) "Department" means the department of revenue.
- 22 (3) "Individual" means a natural person, whether filing 23 individually or jointly.
  - (4) "Internal revenue code" means the United States internal revenue code of 1986 and amendments thereto, as existing and in effect on January 1, 2012.
    - (5) "Resident" includes an individual who:
    - (a) Has resided in this state for the entire tax year; or
      - (b) Is domiciled in this state unless the individual:
    - (i) Maintains no permanent place of abode in this state; and
    - (ii) Does not maintain a permanent place of abode elsewhere; and
- 32 (iii) Spends in the aggregate not more than thirty days in the tax 33 year in this state; or
- 34 (c) Is not domiciled in this state, but maintains a permanent place 35 of abode in this state and spends in the aggregate more than one 36 hundred eighty-three days of the tax year in this state unless the

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- 1 individual establishes to the satisfaction of the department that the
- 2 individual is in the state only for temporary or transitory purposes;
- 3 or
- 4 (d) Claims this state as the individual's tax home for federal income tax purposes.
- 6 (6) "Tax" means the tax determined by this chapter, unless the context requires a different meaning.
- 8 (7) "Taxpayer" means a person receiving income subject to tax under 9 this chapter.
- NEW SECTION. Sec. 502. TERM USAGE. Except as provided in section 501 of this act, any term used in this chapter has the same meaning as when used in a comparable context in the internal revenue code.
- 13 PART VI
- 14 MISCELLANEOUS
- 15 <u>NEW SECTION.</u> **Sec. 601.** SEVERABILITY. If any provision of this
- 16 act or its application to any person or circumstance is held invalid,
- 17 the remainder of the act or the application of the provision to other
- 18 persons or circumstances is not affected.
- 19 <u>NEW SECTION.</u> **Sec. 602.** APPLICATION. This act applies to taxes
- 20 collectible in 2013 and thereafter.
- 21 NEW SECTION. Sec. 603. CODIFICATION. Sections 101 through 602 of
- this act constitute a new chapter in Title 82 RCW.

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