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SENATE BILL 5923

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State of Washington                      62nd Legislature                      2011 Regular Session

By Senators Chase, Kline, Nelson, Conway, Harper, Keiser, and Kohl-Welles

Read first time 04/07/11. Referred to Committee on Ways & Means.

1            AN ACT Relating to taxpayer accountability by requiring a net  
2 benefit to the state in order to claim the benefit of a tax expenditure  
3 and strengthening reporting and enforcement; and amending RCW  
4 82.04.260, 82.04.4494, 82.08.956, 82.12.956, 82.32.585, and 82.32.534.

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

6            **Sec. 1.** RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No.  
7 1107) are each amended to read as follows:

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

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

16            (b) Beginning July 1, 2012, seafood products that remain in a raw,  
17 raw frozen, or raw salted state at the completion of the manufacturing  
18 by that person; or selling manufactured seafood products that remain in  
19 a raw, raw frozen, or raw salted state at the completion of the

1 manufacturing, to purchasers who transport in the ordinary course of  
2 business the goods out of this state; as to such persons the amount of  
3 tax with respect to such business is equal to the value of the products  
4 manufactured or the gross proceeds derived from such sales, multiplied  
5 by the rate of 0.138 percent. Sellers must keep and preserve records  
6 for the period required by RCW 82.32.070 establishing that the goods  
7 were transported by the purchaser in the ordinary course of business  
8 out of this state;

9 (c) Beginning July 1, 2012, dairy products that as of September 20,  
10 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,  
11 including by-products from the manufacturing of the dairy products such  
12 as whey and casein; or selling the same to purchasers who transport in  
13 the ordinary course of business the goods out of state; as to such  
14 persons the tax imposed is equal to the value of the products  
15 manufactured or the gross proceeds derived from such sales multiplied  
16 by the rate of 0.138 percent. Sellers must keep and preserve records  
17 for the period required by RCW 82.32.070 establishing that the goods  
18 were transported by the purchaser in the ordinary course of business  
19 out of this state;

20 (d) Beginning July 1, 2012, fruits or vegetables by canning,  
21 preserving, freezing, processing, or dehydrating fresh fruits or  
22 vegetables, or selling at wholesale fruits or vegetables manufactured  
23 by the seller by canning, preserving, freezing, processing, or  
24 dehydrating fresh fruits or vegetables and sold to purchasers who  
25 transport in the ordinary course of business the goods out of this  
26 state; as to such persons the amount of tax with respect to such  
27 business is equal to the value of the products manufactured or the  
28 gross proceeds derived from such sales multiplied by the rate of 0.138  
29 percent. Sellers must keep and preserve records for the period  
30 required by RCW 82.32.070 establishing that the goods were transported  
31 by the purchaser in the ordinary course of business out of this state;

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

37 (f)(i) Wood biomass fuel as defined in RCW 82.29A.135; as to such

1 persons the amount of tax with respect to the business is equal to the  
2 value of wood biomass fuel manufactured, multiplied by the rate of  
3 0.138 percent.

4 (ii) A person reporting under the tax rate provided in this  
5 subsection (1)(f) must file a complete annual survey with the  
6 department under RCW 82.32.585.

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

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

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

21 (5) Upon every person engaging within this state in the business of  
22 acting as a travel agent or tour operator; as to such persons the  
23 amount of the tax with respect to such activities is equal to the gross  
24 income derived from such activities multiplied by the rate of 0.275  
25 percent.

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

33 (7) Upon every person engaging within this state in the business of  
34 stevedoring and associated activities pertinent to the movement of  
35 goods and commodities in waterborne interstate or foreign commerce; as  
36 to such persons the amount of tax with respect to such business is  
37 equal to the gross proceeds derived from such activities multiplied by  
38 the rate of 0.275 percent. Persons subject to taxation under this

1 subsection are exempt from payment of taxes imposed by chapter 82.16  
2 RCW for that portion of their business subject to taxation under this  
3 subsection. Stevedoring and associated activities pertinent to the  
4 conduct of goods and commodities in waterborne interstate or foreign  
5 commerce are defined as all activities of a labor, service or  
6 transportation nature whereby cargo may be loaded or unloaded to or  
7 from vessels or barges, passing over, onto or under a wharf, pier, or  
8 similar structure; cargo may be moved to a warehouse or similar holding  
9 or storage yard or area to await further movement in import or export  
10 or may move to a consolidation freight station and be stuffed,  
11 unstuffed, containerized, separated or otherwise segregated or  
12 aggregated for delivery or loaded on any mode of transportation for  
13 delivery to its consignee. Specific activities included in this  
14 definition are: Wharfage, handling, loading, unloading, moving of  
15 cargo to a convenient place of delivery to the consignee or a  
16 convenient place for further movement to export mode; documentation  
17 services in connection with the receipt, delivery, checking, care,  
18 custody and control of cargo required in the transfer of cargo;  
19 imported automobile handling prior to delivery to consignee; terminal  
20 stevedoring and incidental vessel services, including but not limited  
21 to plugging and unplugging refrigerator service to containers,  
22 trailers, and other refrigerated cargo receptacles, and securing ship  
23 hatch covers.

24 (8) Upon every person engaging within this state in the business of  
25 disposing of low-level waste, as defined in RCW 43.145.010; as to such  
26 persons the amount of the tax with respect to such business is equal to  
27 the gross income of the business, excluding any fees imposed under  
28 chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

29 If the gross income of the taxpayer is attributable to activities  
30 both within and without this state, the gross income attributable to  
31 this state must be determined in accordance with the methods of  
32 apportionment required under RCW 82.04.460.

33 (9) Upon every person engaging within this state as an insurance  
34 producer or title insurance agent licensed under chapter 48.17 RCW or  
35 a surplus line broker licensed under chapter 48.15 RCW; as to such  
36 persons, the amount of the tax with respect to such licensed activities  
37 is equal to the gross income of such business multiplied by the rate of  
38 0.484 percent.

1 (10) Upon every person engaging within this state in business as a  
2 hospital, as defined in chapter 70.41 RCW, that is operated as a  
3 nonprofit corporation or by the state or any of its political  
4 subdivisions, as to such persons, the amount of tax with respect to  
5 such activities is equal to the gross income of the business multiplied  
6 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent  
7 thereafter.

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

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

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

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

32 (d) In addition to all other requirements under this title, a  
33 person reporting under the tax rate provided in this subsection (11)  
34 must file a complete annual report with the department under RCW  
35 82.32.534.

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

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

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

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

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

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

37 (e) For purposes of this subsection, the following definitions  
38 apply:

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

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

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

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

25 (v) "Timber products" means:

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

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

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

33 (vi) "Wood products" means paper and paper products; dimensional  
34 lumber; engineered wood products such as particleboard, oriented strand  
35 board, medium density fiberboard, and plywood; wood doors; wood  
36 windows; and biocomposite surface products.

37 (f) Except for small harvesters as defined in RCW 84.33.035, a

1 person reporting under the tax rate provided in this subsection (12)  
2 must file a complete annual survey with the department under RCW  
3 82.32.585.

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

9 (14)(a) Upon every person engaging within this state in the  
10 business of printing a newspaper, publishing a newspaper, or both, the  
11 amount of tax on such business is equal to the gross income of the  
12 business multiplied by the rate of 0.2904 percent.

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

16 **Sec. 2.** RCW 82.04.4494 and 2009 c 469 s 401 are each amended to  
17 read as follows:

18 (1) In computing the tax imposed under this chapter, harvesters are  
19 allowed a credit against the amount of tax otherwise due under this  
20 chapter, as provided in this section. The credit per harvested green  
21 ton of forest derived biomass sold, transferred, or used for production  
22 of electricity, steam, heat, or biofuel is as follows:

23 (a) For forest derived biomass harvested October 1, 2009, through  
24 June 30, 2010, zero dollars;

25 (b) For forest derived biomass harvested July 1, 2010, through June  
26 30, 2013, three dollars;

27 (c) For forest derived biomass harvested July 1, 2013, through June  
28 30, 2015, five dollars.

29 (2) Credit may not be claimed for forest derived biomass sold,  
30 transferred, or used before July 1, 2009. The amount of credit allowed  
31 for a reporting period may not exceed the tax otherwise due under this  
32 chapter for that reporting period. Any unused excess credit in a  
33 reporting period may be carried forward to future reporting periods for  
34 a maximum of two years.

35 (3) For the purposes of this section, "harvested" and "harvesters"  
36 are defined in RCW 84.33.035, and "biofuel" is defined in RCW  
37 43.325.010.

1       (4) A person claiming the tax credit provided in this section must  
2 file a complete annual survey with the department under RCW 82.32.585.

3       (5) This section expires June 30, 2015.

4       **Sec. 3.** RCW 82.08.956 and 2009 c 469 s 301 are each amended to  
5 read as follows:

6       (1) The tax levied by RCW 82.08.020 does not apply to sales of hog  
7 fuel used to produce electricity, steam, heat, or biofuel. This  
8 exemption is available only if the buyer provides the seller with an  
9 exemption certificate in a form and manner prescribed by the  
10 department. The seller must retain a copy of the certificate for the  
11 seller's files.

12       (2) For the purposes of this section the following definitions  
13 apply:

14       (a) "Hog fuel" means wood waste and other wood residuals including  
15 forest derived biomass. "Hog fuel" does not include firewood or wood  
16 pellets; and

17       (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

18       (3) A person claiming the tax credit provided in this section must  
19 file a complete annual survey with the department under RCW 82.32.585.

20       (4) This section expires June 30, 2013.

21       **Sec. 4.** RCW 82.12.956 and 2009 c 469 s 302 are each amended to  
22 read as follows:

23       (1) The provisions of this chapter do not apply with respect to the  
24 use of hog fuel for production of electricity, steam, heat, or biofuel.

25       (2) For the purposes of this section:

26       (a) "Hog fuel" has the same meaning as provided in RCW 82.08.956;  
27 and

28       (b) "Biofuel" has the same meaning as provided in RCW 43.325.010.

29       (3) A person claiming the tax credit provided in this section must  
30 file a complete annual survey with the department under RCW 82.32.585.

31       (4) This section expires June 30, 2013.

32       **Sec. 5.** RCW 82.32.585 and 2010 c 114 s 102 are each amended to  
33 read as follows:

34       (1)(a) Every person claiming a tax ((preference)) expenditure that

1 requires a survey under this section must file a complete annual survey  
2 with the department.

3 (i) Except as provided in (a)(ii) of this subsection, the survey is  
4 due by April 30th of the year following any calendar year in which a  
5 person becomes eligible to claim the tax ((~~preference~~)) expenditure  
6 that requires a survey under this section.

7 (ii) If the tax ((~~preference~~)) expenditure is a deferral of tax,  
8 the first survey must be filed by April 30th of the calendar year  
9 following the calendar year in which the investment project is  
10 certified by the department as operationally complete, and a survey  
11 must be filed by April 30th of each of the seven succeeding calendar  
12 years.

13 (b) The department may extend the due date for timely filing of  
14 annual surveys under this section as provided in RCW 82.32.590.

15 (2)(a) The survey must include the amount of the tax ((~~preference~~))  
16 expenditure claimed for the calendar year covered by the survey.

17 (b) The survey must also include the following information for  
18 employment positions in Washington, not to include names of employees,  
19 for the year that the tax ((~~preference~~)) expenditure was claimed:

20 (i) The number of total employment positions;  
21 (ii) Full-time, part-time, and temporary employment positions as a  
22 percent of total employment;

23 (iii) The number of employment positions according to the following  
24 wage bands: Less than thirty thousand dollars; thirty thousand dollars  
25 or greater, but less than sixty thousand dollars; and sixty thousand  
26 dollars or greater. A wage band containing fewer than three  
27 individuals may be combined with another wage band; and

28 (iv) The number of employment positions that have employer-provided  
29 medical, dental, and retirement benefits, by each of the wage bands.

30 (c) For persons claiming the tax ((~~preference~~)) expenditure  
31 provided under chapter 82.60 or 82.63 RCW, the survey must also include  
32 the number of new products or research projects by general  
33 classification, and the number of trademarks, patents, and copyrights  
34 associated with activities at the investment project.

35 (d) For persons claiming the credit provided under RCW 82.04.4452,  
36 the survey must also include the qualified research and development  
37 expenditures during the calendar year for which the credit was claimed,  
38 the taxable amount during the calendar year for which the credit was

1 claimed, the number of new products or research projects by general  
2 classification, the number of trademarks, patents, and copyrights  
3 associated with the research and development activities for which the  
4 credit was claimed, and whether the tax ((~~preference~~)) expenditure has  
5 been assigned, and who assigned the credit. The definitions in RCW  
6 82.04.4452 apply to this subsection (2)(d).

7 (e) If the person filing a survey under this section did not file  
8 a survey with the department in the previous calendar year, the survey  
9 filed under this section must also include the employment, wage, and  
10 benefit information required under (b)(i) through (iv) of this  
11 subsection for the calendar year immediately preceding the calendar  
12 year for which a tax ((~~preference~~)) expenditure was claimed.

13 (3) As part of the annual survey, the department may request  
14 additional information necessary to measure the results of, or  
15 determine eligibility for, the tax ((~~preference~~)) expenditure.

16 (4) All information collected under this section, except the amount  
17 of the tax ((~~preference~~)) expenditure claimed, is deemed taxpayer  
18 information under RCW 82.32.330. Information on the amount of tax  
19 ((~~preference~~)) expenditure claimed is not subject to the  
20 confidentiality provisions of RCW 82.32.330 and may be disclosed to the  
21 public upon request, except as provided in subsection (5) of this  
22 section. If the amount of the tax ((~~preference~~)) expenditure claimed  
23 as reported on the survey is different than the amount actually claimed  
24 or otherwise allowed by the department based on the taxpayer's excise  
25 tax returns or other information known to the department, the amount  
26 actually claimed or allowed may be disclosed.

27 (5) Persons for whom the actual amount of the tax reduced or saved  
28 is less than ten thousand dollars during the period covered by the  
29 survey may request the department to treat the amount of the tax  
30 reduction or savings as confidential under RCW 82.32.330.

31 (6)(a) Except as otherwise provided by law, if a person claims a  
32 tax ((~~preference~~)) expenditure that requires an annual survey under  
33 this section but fails to submit a complete annual survey by the due  
34 date of the survey or any extension under RCW 82.32.590, the department  
35 must declare the amount of the tax ((~~preference~~)) expenditure claimed  
36 for the previous calendar year to be immediately due. If the tax  
37 ((~~preference~~)) expenditure is a deferral of tax, twelve and one-half  
38 percent of the deferred tax is immediately due. If the economic

1 benefits of the deferral are passed to a lessee, the lessee is  
2 responsible for payment to the extent the lessee has received the  
3 economic benefit.

4 (b)(i) If a person claims a tax expenditure that does not produce  
5 a net benefit to the state each year, the department must declare the  
6 amount of the tax expenditure claimed for the previous calendar year to  
7 be immediately due and payable.

8 (ii) The amount otherwise due and payable under (b)(i) of this  
9 subsection may be waived if the failure to produce a net benefit to the  
10 state was the result of circumstances beyond the control of the  
11 taxpayer.

12 (iii) If the tax expenditure is a deferral of tax, twelve and  
13 one-half percent of the deferred tax is immediately due.

14 (iv) If the economic benefits of the deferral are passed to a  
15 lessee, the lessee is responsible for payment to the extent the lessee  
16 has received the economic benefit.

17 (c) The department must assess interest, but not penalties, on the  
18 amounts due under this subsection. The interest must be assessed at  
19 the rate provided for delinquent taxes under this chapter,  
20 retroactively to the date the tax ((preference)) expenditure was  
21 claimed, and accrues until the taxes for which the tax ((preference))  
22 expenditure was claimed are repaid. Amounts due under this subsection  
23 are not subject to the confidentiality provisions of RCW 82.32.330 and  
24 may be disclosed to the public upon request.

25 (7) The department must use the information from this section to  
26 determine the net benefit to the state of any individual's tax  
27 expenditure for purposes of subsection (6)(b) of this section.

28 (8) The department must use the information from this section to  
29 prepare summary descriptive statistics by category. No fewer than  
30 three taxpayers may be included in any category. The department must  
31 report these statistics to the legislature each year by October 1st.

32 ~~((+8))~~ (9) For the purposes of this section:

33 (a) "Person" has the meaning provided in RCW 82.04.030 and also  
34 includes the state and its departments and institutions.

35 (b) "Tax ((preference)) expenditure" has the meaning ((provided))  
36 as "tax preference" in RCW 43.136.021 and includes only the tax  
37 ((preferences)) expenditures requiring a survey under this section.

1 (c) "Net benefit to the state" means the amount of economic benefit  
2 to the state in jobs created or retained, if the stated legislative  
3 intent of the tax expenditure was job creation or retention, plus the  
4 amount of increased economic activity directly related to the tax  
5 expenditure claimed, measured by the amount of taxes paid by the  
6 increased economic activity claimed, minus the annual amount of  
7 taxpayer savings.

8 (i) For purposes of this subsection (9)(c), the amount of economic  
9 benefit to the state in jobs created or retained must be measured by  
10 state and local taxes paid by an employee, which must be calculated as  
11 a percentage of the annual wage for each employment position as  
12 follows:

13 (A) For an annual wage of less than twenty thousand dollars, the  
14 percentage is 17.3 percent;

15 (B) For an annual wage of more than twenty thousand dollars and  
16 less than thirty-seven thousand dollars, the percentage is 12.7  
17 percent;

18 (C) For an annual wage of more than thirty-seven thousand dollars  
19 and less than sixty-two thousand dollars, the percentage is 11.2  
20 percent;

21 (D) For an annual wage of more than sixty-two thousand dollars and  
22 less than ninety-nine thousand dollars, the percentage is 9.5 percent;  
23 and

24 (E) For an annual wage of more than ninety-nine thousand dollars,  
25 the percentage is 7.6 percent.

26 (ii) For purposes of this subsection (9)(c), the amount of  
27 increased economic activity directly related to the tax expenditure  
28 claimed must be measured by the increased taxes paid by the taxpayer  
29 annually on the activity directly related to the tax expenditure minus  
30 the annual amount of taxpayer savings.

31 **Sec. 6.** RCW 82.32.534 and 2010 c 114 s 103 are each amended to  
32 read as follows:

33 (1)(a) Every person claiming a tax ((preference)) expenditure that  
34 requires a report under this section must file a complete annual report  
35 with the department. The report is due by April 30th of the year  
36 following any calendar year in which a person becomes eligible to claim

1 the tax ((~~preference~~)) expenditure that requires a report under this  
2 section. The department may extend the due date for timely filing of  
3 annual reports under this section as provided in RCW 82.32.590.

4 (b) The report must include information detailing employment,  
5 wages, and employer-provided health and retirement benefits for  
6 employment positions in Washington for the year that the tax  
7 ((~~preference~~)) expenditure was claimed. However, persons engaged in  
8 manufacturing commercial airplanes or components of such airplanes may  
9 report employment, wage, and benefit information per job at the  
10 manufacturing site for the year that the tax ((~~preference~~)) expenditure  
11 was claimed. The report must not include names of employees. The  
12 report must also detail employment by the total number of full-time,  
13 part-time, and temporary positions for the year that the tax  
14 ((~~preference~~)) expenditure was claimed.

15 (c) Persons receiving the benefit of the tax ((~~preference~~))  
16 expenditure provided by RCW 82.16.0421 or claiming any of the tax  
17 ((~~preferences~~)) expenditures provided by RCW 82.04.2909, 82.04.4481,  
18 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual  
19 report the quantity of product produced in this state during the time  
20 period covered by the report.

21 (d) If a person filing a report under this section did not file a  
22 report with the department in the previous calendar year, the report  
23 filed under this section must also include employment, wage, and  
24 benefit information for the calendar year immediately preceding the  
25 calendar year for which a tax ((~~preference~~)) expenditure was claimed.

26 (2) As part of the annual report, the department may request  
27 additional information necessary to measure the results of, or  
28 determine eligibility for, the tax ((~~preference~~)) expenditure.

29 (3) Other than information requested under subsection (2) of this  
30 section, the information contained in an annual report filed under this  
31 section is not subject to the confidentiality provisions of RCW  
32 82.32.330 and may be disclosed to the public upon request.

33 (4)(a) Except as otherwise provided by law, if a person claims a  
34 tax ((~~preference~~)) expenditure that requires an annual report under  
35 this section but fails to submit a complete report by the due date or  
36 any extension under RCW 82.32.590, the department must declare the  
37 amount of the tax ((~~preference~~)) expenditure claimed for the previous  
38 calendar year to be immediately due and payable.

1 (b)(i) If a person claims a tax expenditure that does not produce  
2 a net benefit to the state each year, the department must declare the  
3 amount of the tax expenditure claimed for the previous calendar year to  
4 be immediately due and payable.

5 (ii) The amount otherwise due and payable under (b)(i) of this  
6 subsection may be waived if the failure to produce a net benefit to the  
7 state was the result of circumstances beyond the control of the  
8 taxpayer.

9 (c) The department must assess interest, but not penalties, on the  
10 amounts due under this subsection. The interest must be assessed at  
11 the rate provided for delinquent taxes under this chapter,  
12 retroactively to the date the tax ((preference)) expenditure was  
13 claimed, and accrues until the taxes for which the tax ((preference))  
14 expenditure was claimed are repaid. Amounts due under this subsection  
15 are not subject to the confidentiality provisions of RCW 82.32.330 and  
16 may be disclosed to the public upon request.

17 (5) The department must use the information from this section to  
18 determine the net benefit to the state of any individual's tax  
19 expenditure for purposes of subsection (4)(b) of this section.

20 (6) The department must use the information from this section to  
21 prepare summary descriptive statistics by category. No fewer than  
22 three taxpayers may be included in any category. The department must  
23 report these statistics to the legislature each year by October 1st.

24 ~~((+6))~~ (7) For the purposes of this section:

25 (a) "Net benefit to the state" has the same meaning as provided in  
26 RCW 82.32.585.

27 (b) "Person" has the meaning provided in RCW 82.04.030 and also  
28 includes the state and its departments and institutions.

29 ~~((+b))~~ (c) "Tax ((preference)) expenditure" has the meaning  
30 ~~((provided))~~ as "tax preference" in RCW 43.136.021 and includes only  
31 the tax ~~((preferences))~~ expenditures requiring a survey under this  
32 section.

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