
SENATE BILL 5945

State of Washington

62nd Legislature

2011 Regular Session

By Senators Rockefeller, Prentice, Eide, Kohl-Welles, Harper, Nelson, White, Ranker, Kline, Murray, Chase, Fraser, Conway, Keiser, Shin, and Regala

Read first time 04/14/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to modifying excise tax laws to provide funding for
2 essential government services; amending RCW 82.04.4281, 82.04.4292,
3 82.04.240, 82.04.2404, 82.04.260, 82.04.263, 82.04.272, 82.04.290,
4 82.04.2905, 82.04.2906, 82.04.2907, 82.04.2908, and 82.04.294;
5 reenacting and amending RCW 82.04.250, 82.04.2909, and 82.32.790;
6 creating a new section; and providing contingent effective dates.

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

8 **PART I: Legislative Intent**

9 NEW SECTION. **Sec. 101.** (1) The legislature finds that there is a
10 critical need to maintain public services that support the high quality
11 of life in Washington state by providing opportunities for
12 Washingtonians to live healthy, productive, and successful lives,
13 providing care and support for those who are unable to care for
14 themselves, and helping to ensure that Washington remains a safe,
15 beautiful, vibrant place to live, work, and raise a family.

16 (2) The legislature recognizes that many previously enacted tax
17 preferences have a stated intent to encourage economic activity or to
18 support a public benefit or service. However, the legislature finds

1 that many other tax preferences lack such a statement or purpose, or
2 were enacted under very different economic conditions than the
3 conditions that prevail in 2011. As a result, there are questions as
4 to the current justification or fairness of these tax preferences in
5 light of the continued tax burden on other taxpayers whose tax payments
6 do support vital state services to the public at a time of sharply
7 reduced overall revenues. The legislature finds that the state
8 revenues provided for these tax preferences would be more wisely
9 invested for funding the quality-of-life public services for which
10 there is a critical need to maintain. The legislature further finds
11 that during this economic crisis and the necessity to balance the
12 budget, cuts should be spread out among all that benefit from state
13 funding. At a time when virtually every area of the budget is being
14 reduced by substantial amounts, those that are receiving preferential
15 tax treatment must also bear some of the burden to balance the budget.

16 (3) Therefore, it is the legislature's intent that if Referendum
17 Bill No. (Senate Bill No. (S-2241/11)) is approved by voters,
18 the funds saved by the modification of the tax preferences in this act
19 be used to support schools, colleges, health care, public safety,
20 environmental protection, and other core functions of the state.

21 **PART II: Investment Income of Nonfinancial Firms**

22 **Sec. 201.** RCW 82.04.4281 and 2007 c 54 s 9 are each amended to
23 read as follows:

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

25 (a) (~~Amounts~~) The first two hundred fifty thousand dollars
26 derived from investments in a calendar year;

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

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

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

35 (a) Amounts received from loans, except as provided in subsection
36 (1)(c) of this section, or the extension of credit to another,

1 revolving credit arrangements, installment sales, the acceptance of
2 payment over time for goods or services, or any of the foregoing that
3 have been transferred by the originator of the same to an affiliate of
4 the transferor; or

5 (b) Amounts received by a banking, lending, or security business.

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

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

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

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

21 (d) "Security business" means a person, other than an issuer, who
22 is engaged in the business of effecting transactions in securities as
23 a broker, dealer, or broker-dealer, as those terms are defined in the
24 securities act of Washington, chapter 21.20 RCW, or the federal
25 securities act of 1933. "Security business" does not include any
26 company excluded from the definition of broker or dealer under the
27 federal investment company act of 1940 or any entity that is not an
28 investment company by reason of sections 3(c)(1) and 3(c)(3) through
29 3(c)(14) thereof.

30 **PART III: Limiting the Tax Preference Benefiting Wall Street Banks**

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

33 (1) In computing tax there may be deducted from the measure of tax
34 by those engaged in banking, loan, security or other financial
35 businesses, interest received on investments or loans primarily secured

1 by first mortgages or trust deeds on nontransient residential
2 properties.

3 (2) Interest deductible under this section includes the portion of
4 fees charged to borrowers, including points and loan origination fees,
5 that is recognized over the life of the loan as an adjustment to yield
6 in the taxpayer's books and records according to generally accepted
7 accounting principles.

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

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

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

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

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

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

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

35 (a)(i) The loans were originated by the person claiming a deduction
36 under this subsection (4) and that person either sold the loans on the
37 secondary market or securitized the loans and sold the securities on
38 the secondary market; or

1 (ii)(A) The person claiming a deduction under this subsection (4)
2 acquired the loans from the person that originated the loans through a
3 merger or acquisition of substantially all of the assets of the person
4 who originated the loans, or the person claiming a deduction under this
5 subsection (4) is affiliated with the person that originated the loans.
6 For purposes of this subsection, "affiliated" means under common
7 control. "Control" means the possession, directly or indirectly, of
8 more than fifty percent of the power to direct or cause the direction
9 of the management and policies of a person, whether through the
10 ownership of voting shares, by contract, or otherwise; and

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

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

18 (5)(a) The deductions provided in this section are not available to
19 any person that is located in more than ten states. For the purposes
20 of this subsection, a person is located in a state if:

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

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

28 (b) For purposes of this subsection, "affiliate" means a person is
29 "affiliated," as defined in subsection (4) of this section, with
30 another person.

31 **PART IV: Partial Roll-back of Preferential,**
32 **Lower Business and Occupation Rates**

33 **Sec. 401.** RCW 82.04.240 and 2010 c 114 s 104 are each amended to
34 read as follows:

35 (1) Upon every person engaging within this state in business as a
36 manufacturer, except persons taxable as manufacturers under other

1 provisions of this chapter; as to such persons the amount of the tax
2 with respect to such business is equal to the value of the products,
3 including byproducts, manufactured, multiplied by the rate of 0.484
4 percent.

5 (2)(a) Upon every person engaging within this state in the business
6 of manufacturing semiconductor materials, as to such persons the amount
7 of tax with respect to such business is, in the case of manufacturers,
8 equal to the value of the product manufactured, or, in the case of
9 processors for hire, equal to the gross income of the business,
10 multiplied by the rate of (~~(0.275)~~) 0.3273 percent. For the purposes
11 of this subsection "semiconductor materials" means silicon crystals,
12 silicon ingots, raw polished semiconductor wafers, compound
13 semiconductors, integrated circuits, and microchips.

14 (b) A person reporting under the tax rate provided in this
15 subsection (2) must file a complete annual report with the department
16 under RCW 82.32.534.

17 (c) This subsection (2) expires twelve years after the effective
18 date of this act.

19 (3) The measure of the tax is the value of the products, including
20 byproducts, so manufactured regardless of the place of sale or the fact
21 that deliveries may be made to points outside the state.

22 **Sec. 402.** RCW 82.04.2404 and 2010 c 114 s 105 are each amended to
23 read as follows:

24 (1) Upon every person engaging within this state in the business of
25 manufacturing or processing for hire semiconductor materials, as to
26 such persons the amount of tax with respect to such business is, in the
27 case of manufacturers, equal to the value of the product manufactured,
28 or, in the case of processors for hire, equal to the gross income of
29 the business, multiplied by the rate of (~~(0.275)~~) 0.3273 percent.

30 (2) For the purposes of this section "semiconductor materials"
31 means silicon crystals, silicon ingots, raw polished semiconductor
32 wafers, and compound semiconductor wafers.

33 (3) A person reporting under the tax rate provided in this section
34 must file a complete annual report with the department under RCW
35 82.32.534.

36 (4) This section expires December 1, 2018.

1 **Sec. 403.** RCW 82.04.250 and 2010 1st sp.s. c 23 s 509 and 2010 1st
2 sp.s. c 23 s 508 are each reenacted and amended to read as follows:

3 (1) Upon every person engaging within this state in the business of
4 making sales at retail, except persons taxable as retailers under other
5 provisions of this chapter, as to such persons, the amount of tax with
6 respect to such business is equal to the gross proceeds of sales of the
7 business, multiplied by the rate of 0.471 percent.

8 (2) Upon every person engaging within this state in the business of
9 making sales at retail that are exempt from the tax imposed under
10 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
11 82.08.0263, except persons taxable under RCW 82.04.260(~~(+10)~~) (11) or
12 subsection (3) of this section, as to such persons, the amount of tax
13 with respect to such business is equal to the gross proceeds of sales
14 of the business, multiplied by the rate of 0.484 percent.

15 (3) Until July 1, 2024, upon every person classified by the federal
16 aviation administration as a federal aviation regulation part 145
17 certificated repair station and that is engaging within this state in
18 the business of making sales at retail that are exempt from the tax
19 imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,
20 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with
21 respect to such business is equal to the gross proceeds of sales of the
22 business, multiplied by the rate of (~~(-2904)~~) 0.3356 percent.

23 **Sec. 404.** RCW 82.04.260 and 2011 c 2 s 203 (Initiative Measure No.
24 1107) are each amended to read as follows:

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

27 (a) Wheat into flour, barley into pearl barley, soybeans into
28 soybean oil, canola into canola oil, canola meal, or canola by-
29 products, or sunflower seeds into sunflower oil; as to such persons the
30 amount of tax with respect to such business is equal to the value of
31 the flour, pearl barley, oil, canola meal, or canola by-product
32 manufactured, multiplied by the rate of (~~(0-138)~~) 0.2245 percent;

33 (b) Beginning July 1, 2012, seafood products that remain in a raw,
34 raw frozen, or raw salted state at the completion of the manufacturing
35 by that person; or selling manufactured seafood products that remain in
36 a raw, raw frozen, or raw salted state at the completion of the
37 manufacturing, to purchasers who transport in the ordinary course of

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

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

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

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

36 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
37 persons the amount of tax with respect to the business is equal to the

1 value of wood biomass fuel manufactured, multiplied by the rate of
2 ((~~0.138~~)) 0.2245 percent.

3 (2) Upon every person engaging within this state in the business of
4 splitting or processing dried peas; as to such persons the amount of
5 tax with respect to such business is equal to the value of the peas
6 split or processed, multiplied by the rate of ((~~0.138~~)) 0.2245 percent.

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

12 (4) Upon every person engaging within this state in the business of
13 slaughtering, breaking and/or processing perishable meat products
14 and/or selling the same at wholesale only and not at retail; as to such
15 persons the tax imposed is equal to the gross proceeds derived from
16 such sales multiplied by the rate of ((~~0.138~~)) 0.2245 percent.

17 (5) Upon every person engaging within this state in the business of
18 acting as a travel agent or tour operator; as to such persons the
19 amount of the tax with respect to such activities is equal to the gross
20 income derived from such activities multiplied by the rate of ((~~0.275~~))
21 0.5813 percent.

22 (6) Upon every person engaging within this state in business as an
23 international steamship agent, international customs house broker,
24 international freight forwarder, vessel and/or cargo charter broker in
25 foreign commerce, and/or international air cargo agent; as to such
26 persons the amount of the tax with respect to only international
27 activities is equal to the gross income derived from such activities
28 multiplied by the rate of ((~~0.275~~)) 0.5813 percent.

29 (7) Upon every person engaging within this state in the business of
30 stevedoring and associated activities pertinent to the movement of
31 goods and commodities in waterborne interstate or foreign commerce; as
32 to such persons the amount of tax with respect to such business is
33 equal to the gross proceeds derived from such activities multiplied by
34 the rate of ((~~0.275~~)) 0.5813 percent. Persons subject to taxation
35 under this subsection are exempt from payment of taxes imposed by
36 chapter 82.16 RCW for that portion of their business subject to
37 taxation under this subsection. Stevedoring and associated activities
38 pertinent to the conduct of goods and commodities in waterborne

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

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

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

29 (9) Upon every person engaging within this state as an insurance
30 producer or title insurance agent licensed under chapter 48.17 RCW or
31 a surplus line broker licensed under chapter 48.15 RCW; as to such
32 persons, the amount of the tax with respect to such licensed activities
33 is equal to the gross income of such business multiplied by the rate of
34 ~~((0.484))~~ 0.738 percent.

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

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

4 (11)(a) Beginning October 1, 2005, upon every person engaging
5 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, equal to the
10 value of the product manufactured and the gross proceeds of sales of
11 the product manufactured, or in the case of processors for hire, equal
12 to the gross income of the business, multiplied by the rate of:

13 (i) 0.4235 percent (~~from~~) beginning October 1, 2005, through June
14 30, 2007; (~~and~~)

15 (ii) 0.2904 percent beginning July 1, 2007, until the effective
16 date of this section; and

17 (iii) 0.3388 percent beginning the effective date of this section.

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

29 (i) 0.2904 percent beginning July 1, 2007, until the effective date
30 of this section; and

31 (ii) 0.3388 percent beginning the effective date of this section.

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

34 (d) In addition to all other requirements under this title, a
35 person reporting under the tax rate provided in this subsection (11)
36 must file a complete annual report with the department under RCW
37 82.32.534.

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

1 (12)(a) Until July 1, 2024, upon every person engaging within this
2 state in the business of extracting timber or extracting for hire
3 timber; as to such persons the amount of tax with respect to the
4 business is, in the case of extractors, equal to the value of products,
5 including by-products, extracted, or in the case of extractors for
6 hire, equal to the gross income of the business, multiplied by the rate
7 of (~~0.4235 percent from July 1, 2006, through June 30, 2007, and~~
8 ~~0.2904 percent from July 1, 2007,~~):

9 (i) 0.4235 percent beginning July 1, 2006, through June 30, 2007;

10 (ii) 0.2904 percent beginning July 1, 2007, until the effective
11 date of this section; and

12 (iii) 0.3388 percent beginning the effective date of this section
13 through June 30, 2024.

14 (b) Until July 1, 2024, upon every person engaging within this
15 state in the business of manufacturing or processing for hire: (i)
16 Timber into timber products or wood products; or (ii) timber products
17 into other timber products or wood products; as to such persons the
18 amount of the tax with respect to the business is, in the case of
19 manufacturers, equal to the value of products, including by-products,
20 manufactured, or in the case of processors for hire, equal to the gross
21 income of the business, multiplied by the rate of (~~0.4235 percent from~~
22 ~~July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,~~
23 ~~2007,~~):

24 (A) 0.4235 percent beginning July 1, 2006, through June 30, 2007;

25 (B) 0.2904 percent beginning July 1, 2007, until the effective date
26 of this section; and

27 (C) 0.3388 percent beginning the effective date of this section
28 through June 30, 2024.

29 (c) Until July 1, 2024, upon every person engaging within this
30 state in the business of selling at wholesale: (i) Timber extracted by
31 that person; (ii) timber products manufactured by that person from
32 timber or other timber products; or (iii) wood products manufactured by
33 that person from timber or timber products; as to such persons the
34 amount of the tax with respect to the business is equal to the gross
35 proceeds of sales of the timber, timber products, or wood products
36 multiplied by the rate of (~~0.4235 percent from July 1, 2006, through~~
37 ~~June 30, 2007, and 0.2904 percent from July 1, 2007,~~):

38 (A) 0.4235 percent beginning July 1, 2006, through June 30, 2007;

1 (B) 0.2904 percent beginning July 1, 2007, until the effective date
2 of this section; and

3 (C) 0.3388 percent beginning the effective date of this section
4 through June 30, 2024.

5 (d) Until July 1, 2024, upon every person engaging within this
6 state in the business of selling standing timber; as to such persons
7 the amount of the tax with respect to the business is equal to the
8 gross income of the business multiplied by the rate of (~~0.2904~~)
9 0.3388 percent. For purposes of this subsection (12)(d), "selling
10 standing timber" means the sale of timber apart from the land, where
11 the buyer is required to sever the timber within thirty months from the
12 date of the original contract, regardless of the method of payment for
13 the timber and whether title to the timber transfers before, upon, or
14 after severance.

15 (e) For purposes of this subsection, the following definitions
16 apply:

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

20 (ii) "Paper and paper products" means products made of interwoven
21 cellulosic fibers held together largely by hydrogen bonding. "Paper
22 and paper products" includes newsprint; office, printing, fine, and
23 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
24 kraft bag, construction, and other kraft industrial papers; paperboard,
25 liquid packaging containers, containerboard, corrugated, and solid-
26 fiber containers including linerboard and corrugated medium; and
27 related types of cellulosic products containing primarily, by weight or
28 volume, cellulosic materials. "Paper and paper products" does not
29 include books, newspapers, magazines, periodicals, and other printed
30 publications, advertising materials, calendars, and similar types of
31 printed materials.

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

37 (iv) "Timber" means forest trees, standing or down, on privately or

1 publicly owned land. "Timber" does not include Christmas trees that
2 are cultivated by agricultural methods or short-rotation hardwoods as
3 defined in RCW 84.33.035.

4 (v) "Timber products" means:

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

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

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

12 (vi) "Wood products" means paper and paper products; dimensional
13 lumber; engineered wood products such as particleboard, oriented strand
14 board, medium density fiberboard, and plywood; wood doors; wood
15 windows; and biocomposite surface products.

16 (f) Except for small harvesters as defined in RCW 84.33.035, a
17 person reporting under the tax rate provided in this subsection (12)
18 must file a complete annual survey with the department under RCW
19 82.32.585.

20 (13) Upon every person engaging within this state in inspecting,
21 testing, labeling, and storing canned salmon owned by another person,
22 as to such persons, the amount of tax with respect to such activities
23 is equal to the gross income derived from such activities multiplied by
24 the rate of (~~0.484~~) 0.738 percent.

25 (14)(a) Upon every person engaging within this state in the
26 business of printing a newspaper, publishing a newspaper, or both, the
27 amount of tax on such business is equal to the gross income of the
28 business multiplied by the rate of (~~0.2904~~) 0.3388 percent.

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

32 **Sec. 405.** RCW 82.04.263 and 2009 c 469 s 202 are each amended to
33 read as follows:

34 (1) Upon every person engaging within this state in the business of
35 cleaning up for the United States, or its instrumentalities,
36 radioactive waste and other by-products of weapons production and
37 nuclear research and development; as to such persons the amount of the

1 tax with respect to such business (~~shall be~~) is equal to the gross
2 income of the business multiplied by the rate of (~~0.471~~) 0.7283
3 percent.

4 (2) For the purposes of this chapter, "cleaning up radioactive
5 waste and other by-products of weapons production and nuclear research
6 and development" means:

7 (a) The activities of handling, storing, treating, immobilizing,
8 stabilizing, or disposing of radioactive waste, radioactive tank waste
9 and capsules, nonradioactive hazardous solid and liquid wastes, or
10 spent nuclear fuel;

11 (b) Spent nuclear fuel conditioning;

12 (c) Removal of contamination in soils and groundwater;

13 (d) Decontamination and decommissioning of facilities; and

14 (e) Services supporting the performance of cleanup. For the
15 purposes of this subsection (2)(e), a service supports the performance
16 of cleanup if it:

17 (i) Is within the scope of work under a clean-up contract with the
18 United States department of energy; or

19 (ii) Assists in the accomplishment of a requirement of a clean-up
20 project undertaken by the United States department of energy under a
21 subcontract entered into with the prime contractor or another
22 subcontractor in furtherance of a clean-up contract between the United
23 States department of energy and a prime contractor.

24 (3) A service does not assist in the accomplishment of a
25 requirement of a clean-up project undertaken by the United States
26 department of energy if the same services are routinely provided to
27 businesses not engaged in clean-up activities, except that the
28 following services are always deemed to contribute to the
29 accomplishment of a requirement of a clean-up project undertaken by the
30 United States department of energy:

31 (a) Information technology and computer support services;

32 (b) Services rendered in respect to infrastructure; and

33 (c) Security, safety, and health services.

34 (4) The legislature intends that the examples provided in this
35 subsection be used as a guideline when determining whether a service is
36 "routinely provided to businesses not engaged in clean-up activities"
37 as that phrase is used in subsection (3) of this section.

1 (a) The radioactive waste clean-up classification does not apply to
2 general accounting services but does apply to performance audits
3 performed for persons cleaning up radioactive waste.

4 (b) The radioactive waste clean-up classification does not apply to
5 general legal services but does apply to those legal services that
6 assist in the accomplishment of a requirement of a clean-up project
7 undertaken by the United States department of energy. Thus, legal
8 services provided to contest any local, state, or federal tax liability
9 or to defend a company against a workers' compensation claim arising
10 from a worksite injury do not qualify for the radioactive waste clean-
11 up classification. But, legal services related to the resolution of a
12 contractual dispute between the parties to a clean-up contract between
13 the United States department of energy and a prime contractor do
14 qualify.

15 (c) General office janitorial services do not qualify for the
16 radioactive waste clean-up classification, but the specialized cleaning
17 of equipment exposed to radioactive waste does qualify.

18 **Sec. 406.** RCW 82.04.272 and 2003 c 168 s 401 are each amended to
19 read as follows:

20 (1) Upon every person engaging within this state in the business of
21 warehousing and reselling drugs for human use pursuant to a
22 prescription; as to such persons, the amount of the tax (~~((shall be))~~) is
23 equal to the gross income of the business multiplied by the rate of
24 (~~((0.138))~~) 0.2245 percent.

25 (2) For the purposes of this section:

26 (a) "Prescription" and "drug" have the same meaning as in RCW
27 82.08.0281; and

28 (b) "Warehousing and reselling drugs for human use pursuant to a
29 prescription" means the buying of drugs for human use pursuant to a
30 prescription from a manufacturer or another wholesaler, and reselling
31 of the drugs to persons selling at retail or to hospitals, clinics,
32 health care providers, or other providers of health care services, by
33 a wholesaler or retailer who is registered with the federal drug
34 enforcement administration and licensed by the state board of pharmacy.

35 **Sec. 407.** RCW 82.04.290 and 2008 c 81 s 6 are each amended to read
36 as follows:

1 (1) Upon every person engaging within this state in the business of
2 providing international investment management services, as to such
3 persons, the amount of tax with respect to such business (~~shall be~~)
4 is equal to the gross income or gross proceeds of sales of the business
5 multiplied by a rate of (~~0.275~~) 0.6563 percent.

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

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

23 (3)(a) Until July 1, 2024, upon every person engaging within this
24 state in the business of performing aerospace product development for
25 others, as to such persons, the amount of tax with respect to such
26 business (~~shall be~~) is equal to the gross income of the business
27 multiplied by a rate of (~~0.9~~) 1.05 percent.

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

30 **Sec. 408.** RCW 82.04.2905 and 1998 c 312 s 7 are each amended to
31 read as follows:

32 Upon every person engaging within this state in the business of
33 providing child care for periods of less than twenty-four hours; as to
34 such persons the amount of tax with respect to such business (~~shall~~
35 ~~be~~) is equal to the gross proceeds derived from such sales multiplied
36 by the rate of (~~0.484~~) 0.738 percent.

1 **Sec. 409.** RCW 82.04.2906 and 2003 c 343 s 1 are each amended to
2 read as follows:

3 (1) Upon every person engaging within this state in the business of
4 providing intensive inpatient or recovery house residential treatment
5 services for chemical dependency, certified by the department of social
6 and health services, for which payment from the United States or any
7 instrumentality thereof or from the state of Washington or any
8 municipal corporation or political subdivision thereof is received as
9 compensation for or to support those services; as to such persons the
10 amount of tax with respect to such business (~~(shall be)~~) is equal to
11 the gross income from such services multiplied by the rate of (~~(0.484)~~)
12 0.738 percent.

13 (2) If the persons described in subsection (1) of this section
14 receive income from sources other than those described in subsection
15 (1) of this section or provide services other than those named in
16 subsection (1) of this section, that income and those services are
17 subject to tax as otherwise provided in this chapter.

18 **Sec. 410.** RCW 82.04.2907 and 2010 1st sp.s. c 23 s 107 are each
19 amended to read as follows:

20 (1) Upon every person engaging within this state in the business of
21 receiving income from royalties, the amount of tax with respect to the
22 business is equal to the gross income from royalties multiplied by the
23 rate of (~~(0.484)~~) 0.738 percent.

24 (2) For the purposes of this section, "gross income from royalties"
25 means compensation for the use of intangible property, including
26 charges in the nature of royalties, regardless of where the intangible
27 property will be used. For purposes of this subsection, "intangible
28 property" includes copyrights, patents, licenses, franchises,
29 trademarks, trade names, and similar items. "Gross income from
30 royalties" does not include compensation for any natural resource, the
31 licensing of prewritten computer software to the end user, or the
32 licensing of digital goods, digital codes, or digital automated
33 services to the end user as defined in RCW 82.04.190(11).

34 **Sec. 411.** RCW 82.04.2908 and 2005 c 514 s 302 are each amended to
35 read as follows:

36 (1) Upon every person engaging within this state in the business of

1 providing room and domiciliary care to residents of a boarding home
2 licensed under chapter 18.20 RCW, the amount of tax with respect to
3 such business (~~shall be~~) is equal to the gross income of the
4 business, multiplied by the rate of (~~0.275~~) 0.5813 percent.

5 (2) For the purposes of this section, "domiciliary care" has the
6 meaning provided in RCW 18.20.020.

7 **Sec. 412.** RCW 82.04.2909 and 2010 1st sp.s. c 2 s 1 and 2010 c 114
8 s 108 are each reenacted and amended to read as follows:

9 (1) Upon every person who is an aluminum smelter engaging within
10 this state in the business of manufacturing aluminum; as to such
11 persons the amount of tax with respect to such business is, in the case
12 of manufacturers, equal to the value of the product manufactured, or in
13 the case of processors for hire, equal to the gross income of the
14 business, multiplied by the rate of (~~0.2904~~) 0.3388 percent.

15 (2) Upon every person who is an aluminum smelter engaging within
16 this state in the business of making sales at wholesale of aluminum
17 manufactured by that person, as to such persons the amount of tax with
18 respect to such business is equal to the gross proceeds of sales of the
19 aluminum multiplied by the rate of (~~0.2904~~) 0.3388 percent.

20 (3) A person reporting under the tax rate provided in this section
21 must file a complete annual report with the department under RCW
22 82.32.534.

23 (4) This section expires January 1, (~~2012~~) 2017.

24 **Sec. 413.** RCW 82.04.294 and 2010 c 114 s 109 are each amended to
25 read as follows:

26 (1)(a) Beginning October 1, 2005, upon every person engaging within
27 this state in the business of manufacturing solar energy systems using
28 photovoltaic modules, or of manufacturing solar grade silicon to be
29 used exclusively in components of such systems; as to such persons the
30 amount of tax with respect to such business is, in the case of
31 manufacturers, equal to the value of the product manufactured, or in
32 the case of processors for hire, equal to the gross income of the
33 business, multiplied by the rate of 0.2904 percent.

34 (b) Beginning October 1, 2009, upon every person engaging within
35 this state in the business of manufacturing solar energy systems using
36 photovoltaic modules, or of manufacturing solar grade silicon, silicon

1 solar wafers, silicon solar cells, thin film solar devices, or compound
2 semiconductor solar wafers to be used exclusively in components of such
3 systems; as to such persons the amount of tax with respect to such
4 business is, in the case of manufacturers, equal to the value of the
5 product manufactured, or in the case of processors for hire, equal to
6 the gross income of the business, multiplied by the rate of (~~0.275~~
7 ~~percent~~));

8 (i) 0.275 percent beginning October 1, 2009, until the effective
9 date of this section; and

10 (ii) 0.3273 percent beginning the effective date of this section.

11 (2)(a) Beginning October 1, 2005, upon every person engaging within
12 this state in the business of making sales at wholesale of solar energy
13 systems using photovoltaic modules and manufactured by the seller, or
14 of solar grade silicon manufactured by the seller to be used
15 exclusively in components of such systems; as to such persons the
16 amount of tax with respect to the business is equal to the gross
17 proceeds of sales of the solar energy systems using photovoltaic
18 modules, or of the solar grade silicon to be used exclusively in
19 components of such systems, multiplied by the rate of 0.2904 percent.

20 (b) Beginning October 1, 2009, upon every person engaging within
21 this state in the business of making sales at wholesale of solar energy
22 systems using photovoltaic modules, or of solar grade silicon, silicon
23 solar wafers, silicon solar cells, thin film solar devices, or compound
24 semiconductor solar wafers to be used exclusively in components of such
25 systems, manufactured by that person; as to such persons the amount of
26 tax with respect to such business is equal to the gross proceeds of
27 sales of the solar energy systems using photovoltaic modules, or of the
28 solar grade silicon to be used exclusively in components of such
29 systems, multiplied by the rate of (~~0.275~~) 0.3168 percent.

30 (3) Beginning October 1, 2009, silicon solar wafers, silicon solar
31 cells, thin film solar devices, or compound semiconductor solar wafers
32 are "semiconductor materials" for the purposes of RCW 82.08.9651 and
33 82.12.9651.

34 (4) The definitions in this subsection apply throughout this
35 section.

36 (a) "Compound semiconductor solar wafers" means a semiconductor
37 solar wafer composed of elements from two or more different groups of
38 the periodic table.

1 (b) "Module" means the smallest nondivisible self-contained
2 physical structure housing interconnected photovoltaic cells and
3 providing a single direct current electrical output.

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

6 (d) "Silicon solar cells" means a photovoltaic cell manufactured
7 from a silicon solar wafer.

8 (e) "Silicon solar wafers" means a silicon wafer manufactured for
9 solar conversion purposes.

10 (f) "Solar energy system" means any device or combination of
11 devices or elements that rely upon direct sunlight as an energy source
12 for use in the generation of electricity.

13 (g) "Solar grade silicon" means high-purity silicon used
14 exclusively in components of solar energy systems using photovoltaic
15 modules to capture direct sunlight. "Solar grade silicon" does not
16 include silicon used in semiconductors.

17 (h) "Thin film solar devices" means a nonparticipating substrate on
18 which various semiconducting materials are deposited to produce a
19 photovoltaic cell that is used to generate electricity.

20 (5) A person reporting under the tax rate provided in this section
21 must file a complete annual report with the department under RCW
22 82.32.534.

23 (6) This section expires June 30, 2014.

24 **PART V: Miscellaneous**

25 **Sec. 501.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s 401
26 are each reenacted and amended to read as follows:

27 (1)(a) Section 401, chapter . . . , Laws of 2011 (this act), section
28 206, chapter 106, Laws of 2010, sections 104, 110, 117, 123, 125, 129,
29 131, and 150, chapter 114, Laws of 2010, section 3, chapter 461, Laws
30 of 2009, section 7, chapter 300, Laws of 2006, and section 4, chapter
31 149, Laws of 2003 are contingent upon the siting and commercial
32 operation of a significant semiconductor microchip fabrication facility
33 in the state of Washington.

34 (b) For the purposes of this section:

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

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

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

6 (2) Chapter 149, Laws of 2003 takes effect the first day of the
7 month in which a contract for the construction of a significant
8 semiconductor fabrication facility is signed, as determined by the
9 director of the department of revenue.

10 (3)(a) The department of revenue must provide notice of the
11 effective date of sections 104, 110, 117, 123, 125, 129, 131, and 150,
12 chapter 114, Laws of 2010(~~(+)~~), section 3, chapter 461, Laws of 2009,
13 section 7, chapter 300, Laws of 2006, and section 4, chapter 149, Laws
14 of 2003 to affected taxpayers, the legislature, and others as deemed
15 appropriate by the department.

16 (b) If, after making a determination that a contract has been
17 signed and chapter 149, Laws of 2003 is effective, the department
18 discovers that commencement of commercial production did not take place
19 within three years of the date the contract was signed, the department
20 must make a determination that chapter 149, Laws of 2003 is no longer
21 effective, and all taxes that would have been otherwise due are deemed
22 deferred taxes and are immediately assessed and payable from any person
23 reporting tax under RCW 82.04.240(2) or claiming an exemption or credit
24 under section 2 or 5 through 10, chapter 149, Laws of 2003. The
25 department is not authorized to make a second determination regarding
26 the effective date of chapter 149, Laws of 2003.

27 NEW SECTION. **Sec. 502.** This act takes effect if Referendum Bill
28 No. (Senate Bill No. (S-2241/11)) is approved by the voters
29 at the next general election.

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