

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

3 (a) Wheat into flour, barley into pearl barley, soybeans into
4 soybean oil, canola into canola oil, canola meal, or canola by-
5 products, or sunflower seeds into sunflower oil; as to such persons the
6 amount of tax with respect to such business is equal to the value of
7 the flour, pearl barley, oil, canola meal, or canola by-product
8 manufactured, multiplied by the rate of 0.138 percent;

9 (b) Beginning July 1, 2015, seafood products that remain in a raw,
10 raw frozen, or raw salted state at the completion of the manufacturing
11 by that person; or selling manufactured seafood products that remain in
12 a raw, raw frozen, or raw salted state at the completion of the
13 manufacturing, to purchasers who transport in the ordinary course of
14 business the goods out of this state; as to such persons the amount of
15 tax with respect to such business is equal to the value of the products
16 manufactured or the gross proceeds derived from such sales, multiplied
17 by the rate of 0.138 percent. Sellers must keep and preserve records
18 for the period required by RCW 82.32.070 establishing that the goods
19 were transported by the purchaser in the ordinary course of business
20 out of this state;

21 (c) Beginning July 1, 2015, dairy products that as of September 20,
22 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
23 including by-products from the manufacturing of the dairy products such
24 as whey and casein; or selling the same to purchasers who transport in
25 the ordinary course of business the goods out of state; as to such
26 persons the tax imposed is equal to the value of the products
27 manufactured or the gross proceeds derived from such sales multiplied
28 by the rate of 0.138 percent. Sellers must keep and preserve records
29 for the period required by RCW 82.32.070 establishing that the goods
30 were transported by the purchaser in the ordinary course of business
31 out of this state;

32 (d) Beginning July 1, 2015, fruits or vegetables by canning,
33 preserving, freezing, processing, or dehydrating fresh fruits or
34 vegetables, or selling at wholesale fruits or vegetables manufactured
35 by the seller by canning, preserving, freezing, processing, or
36 dehydrating fresh fruits or vegetables and sold to purchasers who
37 transport in the ordinary course of business the goods out of this
38 state; as to such persons the amount of tax with respect to such

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

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

11 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
12 persons the amount of tax with respect to the business is equal to the
13 value of wood biomass fuel manufactured, multiplied by the rate of
14 0.138 percent.

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

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

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

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

34 ~~(6))~~ Upon every person engaging within this state in business as
35 an international steamship agent, international customs house broker,
36 international freight forwarder, vessel and/or cargo charter broker in
37 foreign commerce, and/or international air cargo agent; as to such

1 persons the amount of the tax with respect to only international
2 activities is equal to the gross income derived from such activities
3 multiplied by the rate of 0.275 percent.

4 ~~((7) Upon every person engaging within this state in the business
5 of stevedoring and associated activities pertinent to the movement of
6 goods and commodities in waterborne interstate or foreign commerce; as
7 to such persons the amount of tax with respect to such business is
8 equal to the gross proceeds derived from such activities multiplied by
9 the rate of 0.275 percent. Persons subject to taxation under this
10 subsection are exempt from payment of taxes imposed by chapter 82.16
11 RCW for that portion of their business subject to taxation under this
12 subsection. Stevedoring and associated activities pertinent to the
13 conduct of goods and commodities in waterborne interstate or foreign
14 commerce are defined as all activities of a labor, service or
15 transportation nature whereby cargo may be loaded or unloaded to or
16 from vessels or barges, passing over, onto or under a wharf, pier, or
17 similar structure; cargo may be moved to a warehouse or similar holding
18 or storage yard or area to await further movement in import or export
19 or may move to a consolidation freight station and be stuffed,
20 unstuffed, containerized, separated or otherwise segregated or
21 aggregated for delivery or loaded on any mode of transportation for
22 delivery to its consignee. Specific activities included in this
23 definition are: Wharfage, handling, loading, unloading, moving of
24 cargo to a convenient place of delivery to the consignee or a
25 convenient place for further movement to export mode; documentation
26 services in connection with the receipt, delivery, checking, care,
27 custody and control of cargo required in the transfer of cargo;
28 imported automobile handling prior to delivery to consignee; terminal
29 stevedoring and incidental vessel services, including but not limited
30 to plugging and unplugging refrigerator service to containers,
31 trailers, and other refrigerated cargo receptacles, and securing ship
32 hatch covers.~~

33 ~~(8))~~ (6)(a) Upon every person engaging within this state in the
34 business of disposing of low-level waste, as defined in RCW 43.145.010;
35 as to such persons the amount of the tax with respect to such business
36 is equal to the gross income of the business, excluding any fees
37 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
38 percent.

1 **(b)** If the gross income of the taxpayer is attributable to
2 activities both within and without this state, the gross income
3 attributable to this state must be determined in accordance with the
4 methods of apportionment required under RCW 82.04.460.

5 ~~((9)) Upon every person engaging within this state as an insurance~~
6 ~~producer or title insurance agent licensed under chapter 48.17 RCW or~~
7 ~~a surplus line broker licensed under chapter 48.15 RCW; as to such~~
8 ~~persons, the amount of the tax with respect to such licensed activities~~
9 ~~is equal to the gross income of such business multiplied by the rate of~~
10 ~~0.484 percent.~~

11 ~~(10))~~ **(7)** Upon every person engaging within this state in business
12 as a hospital, as defined in chapter 70.41 RCW, that is operated as a
13 nonprofit corporation or by the state or any of its political
14 subdivisions, as to such persons, the amount of tax with respect to
15 such activities is equal to the gross income of the business multiplied
16 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent
17 thereafter.

18 ~~((11))~~ **(8)(a)** Beginning October 1, 2005, upon every person
19 engaging within this state in the business of manufacturing commercial
20 airplanes, or components of such airplanes, or making sales, at retail
21 or wholesale, of commercial airplanes or components of such airplanes,
22 manufactured by the seller, as to such persons the amount of tax with
23 respect to such business is, in the case of manufacturers, equal to the
24 value of the product manufactured and the gross proceeds of sales of
25 the product manufactured, or in the case of processors for hire, equal
26 to the gross income of the business, multiplied by the rate of:

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

29 **(b)** Beginning July 1, 2008, upon every person who is not eligible
30 to report under the provisions of (a) of this subsection ~~((11))~~ **(8)**
31 and is engaging within this state in the business of manufacturing
32 tooling specifically designed for use in manufacturing commercial
33 airplanes or components of such airplanes, or making sales, at retail
34 or wholesale, of such tooling manufactured by the seller, as to such
35 persons the amount of tax with respect to such business is, in the case
36 of manufacturers, equal to the value of the product manufactured and
37 the gross proceeds of sales of the product manufactured, or in the case

1 of processors for hire, be equal to the gross income of the business,
2 multiplied by the rate of 0.2904 percent.

3 (c) For the purposes of this subsection (~~((11))~~) (8), "commercial
4 airplane" and "component" have the same meanings as provided in RCW
5 82.32.550.

6 (d) In addition to all other requirements under this title, a
7 person reporting under the tax rate provided in this subsection
8 (~~((11))~~) (8) must file a complete annual report with the department
9 under RCW 82.32.534.

10 (e) This subsection (~~((11))~~) (8) does not apply on and after July
11 1, 2024.

12 (~~((12))~~) (9)(a) Until July 1, 2024, upon every person engaging
13 within this state in the business of extracting timber or extracting
14 for hire timber; as to such persons the amount of tax with respect to
15 the business is, in the case of extractors, equal to the value of
16 products, including by-products, extracted, or in the case of
17 extractors for hire, equal to the gross income of the business,
18 multiplied by the rate of 0.4235 percent from July 1, 2006, through
19 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
20 2024.

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

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

1 multiplied by the rate of 0.4235 percent from July 1, 2006, through
2 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
3 2024.

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

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

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

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

31 (iii) "Recycled paper" means paper and paper products having fifty
32 percent or more of their fiber content that comes from postconsumer
33 waste. For purposes of this subsection (~~((+12+))~~) (9)(e)(iii),
34 "postconsumer waste" means a finished material that would normally be
35 disposed of as solid waste, having completed its life cycle as a
36 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
18 (~~((+12))~~) (9) must file a complete annual survey with the department
19 under RCW 82.32.585.

20 (~~((+13))~~) (10) Upon every person engaging within this state in
21 inspecting, testing, labeling, and storing canned salmon owned by
22 another person, as to such persons, the amount of tax with respect to
23 such activities is equal to the gross income derived from such
24 activities multiplied by the rate of 0.484 percent.

25 (~~((+14))~~) (11)(a) Upon every person engaging within this state in
26 the business of printing a newspaper, publishing a newspaper, or both,
27 the amount of tax on such business is equal to the gross income of the
28 business multiplied by the rate of 0.365 percent through June 30, 2013,
29 and beginning July 1, 2013, multiplied by the rate of 0.35 percent.

30 (b) A person reporting under the tax rate provided in this
31 subsection (~~((+14))~~) (11) must file a complete annual report with the
32 department under RCW 82.32.534.

33 **Sec. 102.** RCW 82.04.260 and 2012 2nd sp.s. c 6 s 204 are each
34 amended to read as follows:

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

1 (a) Wheat into flour, barley into pearl barley, soybeans into
2 soybean oil, canola into canola oil, canola meal, or canola by-
3 products, or sunflower seeds into sunflower oil; as to such persons the
4 amount of tax with respect to such business is equal to the value of
5 the flour, pearl barley, oil, canola meal, or canola by-product
6 manufactured, multiplied by the rate of 0.138 percent;

7 (b) Beginning July 1, 2015, seafood products that remain in a raw,
8 raw frozen, or raw salted state at the completion of the manufacturing
9 by that person; or selling manufactured seafood products that remain in
10 a raw, raw frozen, or raw salted state at the completion of the
11 manufacturing, to purchasers who transport in the ordinary course of
12 business the goods out of this state; as to such persons the amount of
13 tax with respect to such business 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 (c) Beginning July 1, 2015, dairy products that as of September 20,
20 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
21 including by-products from the manufacturing of the dairy products such
22 as whey and casein; or selling the same to purchasers who transport in
23 the ordinary course of business the goods out of state; as to such
24 persons the tax imposed is equal to the value of the products
25 manufactured or the gross proceeds derived from such sales multiplied
26 by the rate of 0.138 percent. Sellers must keep and preserve records
27 for the period required by RCW 82.32.070 establishing that the goods
28 were transported by the purchaser in the ordinary course of business
29 out of this state;

30 (d) Beginning July 1, 2015, fruits or vegetables by canning,
31 preserving, freezing, processing, or dehydrating fresh fruits or
32 vegetables, or selling at wholesale fruits or vegetables manufactured
33 by the seller by canning, preserving, freezing, processing, or
34 dehydrating fresh fruits or vegetables and sold to purchasers who
35 transport in the ordinary course of business the goods out of this
36 state; as to such persons the amount of tax with respect to such
37 business is equal to the value of the products manufactured or the
38 gross proceeds derived from such sales multiplied by the rate of 0.138

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

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

9 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
10 persons the amount of tax with respect to the business is equal to the
11 value of wood biomass fuel manufactured, multiplied by the rate of
12 0.138 percent.

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

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

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

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

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

1 ~~((7) Upon every person engaging within this state in the business~~
2 ~~of stevedoring and associated activities pertinent to the movement of~~
3 ~~goods and commodities in waterborne interstate or foreign commerce; as~~
4 ~~to such persons the amount of tax with respect to such business is~~
5 ~~equal to the gross proceeds derived from such activities multiplied by~~
6 ~~the rate of 0.275 percent. Persons subject to taxation under this~~
7 ~~subsection are exempt from payment of taxes imposed by chapter 82.16~~
8 ~~RCW for that portion of their business subject to taxation under this~~
9 ~~subsection. Stevedoring and associated activities pertinent to the~~
10 ~~conduct of goods and commodities in waterborne interstate or foreign~~
11 ~~commerce are defined as all activities of a labor, service or~~
12 ~~transportation nature whereby cargo may be loaded or unloaded to or~~
13 ~~from vessels or barges, passing over, onto or under a wharf, pier, or~~
14 ~~similar structure; cargo may be moved to a warehouse or similar holding~~
15 ~~or storage yard or area to await further movement in import or export~~
16 ~~or may move to a consolidation freight station and be stuffed,~~
17 ~~unstuffed, containerized, separated or otherwise segregated or~~
18 ~~aggregated for delivery or loaded on any mode of transportation for~~
19 ~~delivery to its consignee. Specific activities included in this~~
20 ~~definition are: Wharfage, handling, loading, unloading, moving of~~
21 ~~cargo to a convenient place of delivery to the consignee or a~~
22 ~~convenient place for further movement to export mode; documentation~~
23 ~~services in connection with the receipt, delivery, checking, care,~~
24 ~~custody and control of cargo required in the transfer of cargo;~~
25 ~~imported automobile handling prior to delivery to consignee; terminal~~
26 ~~stevedoring and incidental vessel services, including but not limited~~
27 ~~to plugging and unplugging refrigerator service to containers,~~
28 ~~trailers, and other refrigerated cargo receptacles, and securing ship~~
29 ~~hatch covers.~~

30 ~~(8))~~ (6)(a) Upon every person engaging within this state in the
31 business of disposing of low-level waste, as defined in RCW 43.145.010;
32 as to such persons the amount of the tax with respect to such business
33 is equal to the gross income of the business, excluding any fees
34 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
35 percent.

36 (b) If the gross income of the taxpayer is attributable to
37 activities both within and without this state, the gross income

1 attributable to this state must be determined in accordance with the
2 methods of apportionment required under RCW 82.04.460.

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

9 ~~(10))~~ (7) Upon every person engaging within this state in business
10 as a hospital, as defined in chapter 70.41 RCW, that is operated as a
11 nonprofit corporation or by the state or any of its political
12 subdivisions, as to such persons, the amount of tax with respect to
13 such activities is equal to the gross income of the business multiplied
14 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent
15 thereafter.

16 ~~((11))~~ (8)(a) Beginning October 1, 2005, upon every person
17 engaging within this state in the business of manufacturing commercial
18 airplanes, or components of such airplanes, or making sales, at retail
19 or wholesale, of commercial airplanes or components of such airplanes,
20 manufactured by the seller, as to such persons the amount of tax with
21 respect to such business is, in the case of manufacturers, equal to the
22 value of the product manufactured and the gross proceeds of sales of
23 the product manufactured, or in the case of processors for hire, equal
24 to the gross income of the business, multiplied by the rate of:

25 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

26 (ii) 0.2904 percent beginning July 1, 2007.

27 (b) Beginning July 1, 2008, upon every person who is not eligible
28 to report under the provisions of (a) of this subsection ~~((11))~~ (8)
29 and is engaging within this state in the business of manufacturing
30 tooling specifically designed for use in manufacturing commercial
31 airplanes or components of such airplanes, or making sales, at retail
32 or wholesale, of such tooling manufactured by the seller, as to such
33 persons the amount of tax with respect to such business is, in the case
34 of manufacturers, equal to the value of the product manufactured and
35 the gross proceeds of sales of the product manufactured, or in the case
36 of processors for hire, be equal to the gross income of the business,
37 multiplied by the rate of 0.2904 percent.

1 (c) For the purposes of this subsection (~~((11))~~) (8), "commercial
2 airplane" and "component" have the same meanings as provided in RCW
3 82.32.550.

4 (d) In addition to all other requirements under this title, a
5 person reporting under the tax rate provided in this subsection
6 (~~((11))~~) (8) must file a complete annual report with the department
7 under RCW 82.32.534.

8 (e) This subsection (~~((11))~~) (8) does not apply on and after July
9 1, 2024.

10 (~~((12))~~) (9)(a) Until July 1, 2024, upon every person engaging
11 within this state in the business of extracting timber or extracting
12 for hire timber; as to such persons the amount of tax with respect to
13 the business is, in the case of extractors, equal to the value of
14 products, including by-products, extracted, or in the case of
15 extractors for hire, equal to the gross income of the business,
16 multiplied by the rate of 0.4235 percent from July 1, 2006, through
17 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
18 2024.

19 (b) Until July 1, 2024, upon every person engaging within this
20 state in the business of manufacturing or processing for hire: (i)
21 Timber into timber products or wood products; or (ii) timber products
22 into other timber products or wood products; as to such persons the
23 amount of the tax with respect to the business is, in the case of
24 manufacturers, equal to the value of products, including by-products,
25 manufactured, or in the case of processors for hire, equal to the gross
26 income of the business, multiplied by the rate of 0.4235 percent from
27 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,
28 2007, 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, through June 30,
38 2024.

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

11 (e) For purposes of this subsection, the following definitions
12 apply:

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

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

28 (iii) "Recycled paper" means paper and paper products having fifty
29 percent or more of their fiber content that comes from postconsumer
30 waste. For purposes of this subsection (~~((+12+))~~) (9)(e)(iii),
31 "postconsumer waste" means a finished material that would normally be
32 disposed of as solid waste, having completed its life cycle as a
33 consumer item.

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

38 (v) "Timber products" means:

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

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

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

8 (vi) "Wood products" means paper and paper products; dimensional
9 lumber; engineered wood products such as particleboard, oriented strand
10 board, medium density fiberboard, and plywood; wood doors; wood
11 windows; and biocomposite surface products.

12 (f) Except for small harvesters as defined in RCW 84.33.035, a
13 person reporting under the tax rate provided in this subsection
14 (~~((+12+))~~) (9) must file a complete annual survey with the department
15 under RCW 82.32.585.

16 (~~((+13+))~~) (10) Upon every person engaging within this state in
17 inspecting, testing, labeling, and storing canned salmon owned by
18 another person, as to such persons, the amount of tax with respect to
19 such activities is equal to the gross income derived from such
20 activities multiplied by the rate of 0.484 percent.

21 (~~((+14+))~~) (11)(a) Upon every person engaging within this state in
22 the business of printing a newspaper, publishing a newspaper, or both,
23 the amount of tax on such business is equal to the gross income of the
24 business multiplied by the rate of 0.2904 percent.

25 (b) A person reporting under the tax rate provided in this
26 subsection (~~((+14+))~~) (11) must file a complete annual report with the
27 department under RCW 82.32.534.

28 **PART II**

29 **Eliminating the Sales and Use Tax Exemption for Bottled Water**

30 **Sec. 201.** RCW 82.08.0293 and 2011 c 2 s 301 are each amended to
31 read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to sales of food
33 and food ingredients. "Food and food ingredients" means substances,
34 whether in liquid, concentrated, solid, frozen, dried, or dehydrated
35 form, that are sold for ingestion or chewing by humans and are consumed

1 for their taste or nutritional value. "Food and food ingredients" does
2 not include:

3 (a) "Alcoholic beverages," which means beverages that are suitable
4 for human consumption and contain one-half of one percent or more of
5 alcohol by volume; and

6 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe
7 tobacco, or any other item that contains tobacco.

8 (2) The exemption of "food and food ingredients" provided for in
9 subsection (1) of this section does not apply to prepared food, soft
10 drinks, bottled water, or dietary supplements. (~~For purposes of this~~
11 ~~subsection, the following definitions apply:~~) The definitions in this
12 subsection apply throughout this section unless the context clearly
13 requires otherwise.

14 (a) "Bottled water" means water that is placed in a sealed
15 container or package for human consumption. Bottled water is calorie
16 free and does not contain sweeteners or other additives except that it
17 may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)
18 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;
19 (vi) preservatives; and (vii) only those flavors, extracts, or essences
20 derived from a spice or fruit. "Bottled water" includes water that is
21 delivered to the buyer in a reusable container that is not sold with
22 the water.

23 (b) "Dietary supplement" means any product, other than tobacco,
24 intended to supplement the diet that:

25 (i) Contains one or more of the following dietary ingredients:

26 (A) A vitamin;

27 (B) A mineral;

28 (C) An herb or other botanical;

29 (D) An amino acid;

30 (E) A dietary substance for use by humans to supplement the diet by
31 increasing the total dietary intake; or

32 (F) A concentrate, metabolite, constituent, extract, or combination
33 of any ingredient described in this subsection;

34 (ii) Is intended for ingestion in tablet, capsule, powder, softgel,
35 gelcap, or liquid form, or if not intended for ingestion in such form,
36 is not represented as conventional food and is not represented for use
37 as a sole item of a meal or of the diet; and

1 (iii) Is required to be labeled as a dietary supplement,
2 identifiable by the "supplement facts" box found on the label as
3 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as
4 of January 1, 2003.

5 ~~((b))~~ (c)(i) "Prepared food" means:

6 (A) Food sold in a heated state or heated by the seller;

7 (B) Food sold with eating utensils provided by the seller,
8 including plates, knives, forks, spoons, glasses, cups, napkins, or
9 straws. A plate does not include a container or packaging used to
10 transport the food; or

11 (C) Two or more food ingredients mixed or combined by the seller
12 for sale as a single item, except:

13 (I) Food that is only cut, repackaged, or pasteurized by the
14 seller; or

15 (II) Raw eggs, fish, meat, poultry, and foods containing these raw
16 animal foods requiring cooking by the consumer as recommended by the
17 federal food and drug administration in chapter 3, part 401.11 of The
18 Food Code, published by the food and drug administration, as amended or
19 renumbered as of January 1, 2003, so as to prevent foodborne illness.

20 (ii) "Prepared food" does not include the following food or food
21 ingredients, if the food or food ingredients are sold without eating
22 utensils provided by the seller:

23 (A) Food sold by a seller whose proper primary North American
24 industry classification system (NAICS) classification is manufacturing
25 in sector 311, except subsector 3118 (bakeries), as provided in the
26 "North American industry classification system--United States, 2002";

27 (B) Food sold in an unheated state by weight or volume as a single
28 item; or

29 (C) Bakery items. The term "bakery items" includes bread, rolls,
30 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
31 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

32 ~~((e))~~ (d) "Soft drinks" means nonalcoholic beverages that contain
33 natural or artificial sweeteners. Soft drinks do not include beverages
34 that contain: Milk or milk products; soy, rice, or similar milk
35 substitutes; or greater than fifty percent of vegetable or fruit juice
36 by volume.

37 (3) Notwithstanding anything in this section to the contrary, the

1 exemption of "food and food ingredients" provided in this section
2 applies to food and food ingredients that are furnished, prepared, or
3 served as meals:

4 (a) Under a state administered nutrition program for the aged as
5 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
6 74.38.040(6);

7 (b) That are provided to senior citizens, individuals with
8 disabilities, or low-income persons by a not-for-profit organization
9 organized under chapter 24.03 or 24.12 RCW; or

10 (c) That are provided to residents, sixty-two years of age or
11 older, of a qualified low-income senior housing facility by the lessor
12 or operator of the facility. The sale of a meal that is billed to both
13 spouses of a marital community or both domestic partners of a domestic
14 partnership meets the age requirement in this subsection (3)(c) if at
15 least one of the spouses or domestic partners is at least sixty-two
16 years of age. For purposes of this subsection, "qualified low-income
17 senior housing facility" means a facility:

18 (i) That meets the definition of a qualified low-income housing
19 project under 26 U.S.C. Sec. 42 of the federal internal revenue code,
20 as existing on August 1, 2009;

21 (ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

22 (iii) For which the lessor or operator has at any time been
23 entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42
24 of the federal internal revenue code.

25 (4)(a) Subsection (1) of this section notwithstanding, the retail
26 sale of food and food ingredients is subject to sales tax under RCW
27 82.08.020 if the food and food ingredients are sold through a vending
28 machine. Except as provided in (b) of this subsection, the selling
29 price of food and food ingredients sold through a vending machine for
30 purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

31 (b) For soft drinks and hot prepared food and food ingredients,
32 other than food and food ingredients which are heated after they have
33 been dispensed from the vending machine, the selling price is the total
34 gross receipts of such sales divided by the sum of one plus the sales
35 tax rate expressed as a decimal.

36 (c) For tax collected under this subsection (4), the requirements
37 that the tax be collected from the buyer and that the amount of tax be
38 stated as a separate item are waived.

1 **Sec. 202.** RCW 82.12.0293 and 2011 c 2 s 303 are each amended to
2 read as follows:

3 (1) The provisions of this chapter do not apply in respect to the
4 use of food and food ingredients for human consumption. "Food and food
5 ingredients" has the same meaning as in RCW 82.08.0293.

6 (2) The exemption of "food and food ingredients" provided for in
7 subsection (1) of this section does not apply to prepared food, soft
8 drinks, bottled water, or dietary supplements. "Prepared food," "soft
9 drinks," "bottled water," and "dietary supplements" have the same
10 meanings as in RCW 82.08.0293.

11 (3) Notwithstanding anything in this section to the contrary, the
12 exemption of "food and food ingredients" provided in this section
13 applies to food and food ingredients which are furnished, prepared, or
14 served as meals:

15 (a) Under a state administered nutrition program for the aged as
16 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
17 74.38.040(6);

18 (b) Which are provided to senior citizens, individuals with
19 disabilities, or low-income persons by a not-for-profit organization
20 organized under chapter 24.03 or 24.12 RCW; or

21 (c) That are provided to residents, sixty-two years of age or
22 older, of a qualified low-income senior housing facility by the lessor
23 or operator of the facility. The sale of a meal that is billed to both
24 spouses of a marital community or both domestic partners of a domestic
25 partnership meets the age requirement in this subsection (3)(c) if at
26 least one of the spouses or domestic partners is at least sixty-two
27 years of age. For purposes of this subsection, "qualified low-income
28 senior housing facility" has the same meaning as in RCW 82.08.0293.

29 NEW SECTION. **Sec. 203.** A new section is added to chapter 82.08
30 RCW to read as follows:

31 (1) Subject to the conditions in this section, the tax levied by
32 RCW 82.08.020 does not apply to sales of bottled water for human use
33 dispensed or to be dispensed to patients, pursuant to a prescription
34 for use in the cure, mitigation, treatment, or prevention of disease or
35 other medical condition.

36 (2) For purposes of this section, "prescription" means an order,

1 formula, or recipe issued in any form of oral, written, electronic, or
2 other means of transmission by a duly licensed practitioner authorized
3 by the laws of this state to prescribe.

4 (3) Except for sales of bottled water delivered to the buyer in a
5 reusable container that is not sold with the water, sellers must
6 collect tax on sales subject to this exemption. Any buyer that has
7 paid at least twenty-five dollars in state and local sales taxes on
8 purchases of bottled water subject to this exemption may apply for a
9 refund of the taxes directly from the department in a form and manner
10 prescribed by the department. The department must deny any refund
11 application if the amount of the refund requested is less than twenty-
12 five dollars. No refund may be made for taxes paid more than four
13 years after the end of the calendar year in which the tax was paid to
14 the seller.

15 (4) The provisions of RCW 82.32.060 apply to refunds authorized
16 under this section.

17 (5) With respect to sales of bottled water delivered to the buyer
18 in a reusable container that is not sold with the water, buyers
19 claiming the exemption provided in this section must provide the seller
20 with an exemption certificate in a form and manner prescribed by the
21 department. The seller must retain a copy of the certificate for the
22 seller's files.

23 NEW SECTION. **Sec. 204.** A new section is added to chapter 82.12
24 RCW to read as follows:

25 (1) The provisions of this chapter do not apply in respect to the
26 use of bottled water for human use dispensed or to be dispensed to
27 patients, pursuant to a prescription for use in the cure, mitigation,
28 treatment, or prevention of disease or medical condition.

29 (2) For the purposes of this section, "prescription" has the same
30 meaning as provided in section 203 of this act.

31 NEW SECTION. **Sec. 205.** A new section is added to chapter 82.08
32 RCW to read as follows:

33 (1)(a) Subject to the conditions in this section, the tax levied by
34 RCW 82.08.020 does not apply to sales of bottled water to persons whose
35 primary source of drinking water is unsafe.

1 (b) For purposes of this subsection and section 206 of this act, a
2 person's primary source of drinking water is unsafe if:

3 (i) The public water system providing the drinking water has issued
4 a public notification that the drinking water may pose a health risk,
5 and the notification is still in effect on the date that the bottled
6 water was purchased;

7 (ii) Test results on the person's drinking water, which are no more
8 than twelve months old, from a laboratory certified to perform drinking
9 water testing show that the person's drinking water does not meet safe
10 drinking water standards applicable to public water systems; or

11 (iii) The person otherwise establishes, to the department's
12 satisfaction, that the person's drinking water does not meet safe
13 drinking water standards applicable to public water systems.

14 (2) Except for sales of bottled water delivered to the buyer in a
15 reusable container that is not sold with the water, sellers must
16 collect tax on sales subject to this exemption. Any buyer that has
17 paid at least twenty-five dollars in state and local sales taxes on
18 purchases of bottled water subject to this exemption may apply for a
19 refund of the taxes directly from the department in a form and manner
20 prescribed by the department. The department must deny any refund
21 application if the amount of the refund requested is less than
22 twenty-five dollars. No refund may be made for taxes paid more than
23 four years after the end of the calendar year in which the tax was paid
24 to the seller.

25 (3) The provisions of RCW 82.32.060 apply to refunds authorized
26 under this section.

27 (4)(a) With respect to sales of bottled water delivered to the
28 buyer in a reusable container that is not sold with the water, buyers
29 claiming the exemption provided in this section must provide the seller
30 with an exemption certificate in a form and manner prescribed by the
31 department. The seller must retain a copy of the certificate for the
32 seller's files.

33 (b) The department may waive the requirement for an exemption
34 certificate in the event of disaster or similar circumstance.

35 NEW SECTION. **Sec. 206.** A new section is added to chapter 82.12
36 RCW to read as follows:

1 The provisions of this chapter do not apply in respect to the use
2 of bottled water by persons whose primary source of drinking water is
3 unsafe as provided in section 205 of this act.

4 **PART III**

5 **Repealing the Nonresident Sales and Use Tax Exemption**

6 **Sec. 301.** RCW 82.08.0273 and 2011 c 7 s 1 are each amended to read
7 as follows:

8 (1) Until July 1, 2013, the tax levied by RCW 82.08.020 does not
9 apply to sales to nonresidents of this state of tangible personal
10 property, digital goods, and digital codes, when:

11 (a) The property is for use outside this state;

12 (b) The purchaser is a bona fide resident of a province or
13 territory of Canada or a state, territory, or possession of the United
14 States, other than the state of Washington; and

15 (i) Such state, possession, territory, or province does not impose,
16 or have imposed on its behalf, a generally applicable retail sales tax,
17 use tax, value added tax, gross receipts tax on retailing activities,
18 or similar generally applicable tax, of three percent or more; or

19 (ii) If imposing a tax described in (b)(i) of this subsection,
20 provides an exemption for sales to Washington residents by reason of
21 their residence; and

22 (c) The purchaser agrees, when requested, to grant the department
23 of revenue access to such records and other forms of verification at
24 his or her place of residence to assure that such purchases are not
25 first used substantially in the state of Washington.

26 (2) Notwithstanding anything to the contrary in this chapter, if
27 parts or other tangible personal property are installed by the seller
28 during the course of repairing, cleaning, altering, or improving motor
29 vehicles, trailers, or campers and the seller makes a separate charge
30 for the tangible personal property, the tax levied by RCW 82.08.020
31 does not apply to the separately stated charge to a nonresident
32 purchaser for the tangible personal property but only if the separately
33 stated charge does not exceed either the seller's current publicly
34 stated retail price for the tangible personal property or, if no
35 publicly stated retail price is available, the seller's cost for the
36 tangible personal property. However, the exemption provided by this

1 section does not apply if tangible personal property is installed by
2 the seller during the course of repairing, cleaning, altering, or
3 improving motor vehicles, trailers, or campers and the seller makes a
4 single nonitemized charge for providing the tangible personal property
5 and service. All of the requirements in subsections (1) and (3)
6 through (6) of this section apply to this subsection.

7 (3)(a) Any person claiming exemption from retail sales tax under
8 the provisions of this section must display proof of his or her current
9 nonresident status as provided in this section.

10 (b) Acceptable proof of a nonresident person's status includes one
11 piece of identification such as a valid driver's license from the
12 jurisdiction in which the out-of-state residency is claimed or a valid
13 identification card which has a photograph of the holder and is issued
14 by the out-of-state jurisdiction. Identification under this subsection
15 (3)(b) must show the holder's residential address and have as one of
16 its legal purposes the establishment of residency in that out-of-state
17 jurisdiction.

18 (c) In lieu of furnishing proof of a person's nonresident status
19 under (b) of this subsection (3), a person claiming exemption from
20 retail sales tax under the provisions of this section may provide the
21 seller with an exemption certificate in compliance with subsection
22 (4)(b) of this section.

23 (4)(a) Nothing in this section requires the vendor to make tax
24 exempt retail sales to nonresidents. A vendor may choose to make sales
25 to nonresidents, collect the sales tax, and remit the amount of sales
26 tax collected to the state as otherwise provided by law. If the vendor
27 chooses to make a sale to a nonresident without collecting the sales
28 tax, the vendor must examine the purchaser's proof of nonresidence,
29 determine whether the proof is acceptable under subsection (3)(b) of
30 this section, and maintain records for each nontaxable sale which shall
31 show the type of proof accepted, including any identification numbers
32 where appropriate, and the expiration date, if any.

33 (b) In lieu of using the method provided in (a) of this subsection
34 to document an exempt sale to a nonresident, a seller may accept from
35 the purchaser a properly completed uniform exemption certificate
36 approved by the streamlined sales and use tax agreement governing board
37 or any other exemption certificate as may be authorized by the
38 department and properly completed by the purchaser. A nonresident

1 purchaser who uses an exemption certificate authorized in this
2 subsection (4)(b) must include the purchaser's driver's license number
3 or other state-issued identification number and the state of issuance.

4 (c) In lieu of using the methods provided in (a) and (b) of this
5 subsection to document an exempt sale to a nonresident, a seller may
6 capture the relevant data elements as allowed under the streamlined
7 sales and use tax agreement.

8 (5)(a) Any person making fraudulent statements, which includes the
9 offer of fraudulent identification or fraudulently procured
10 identification to a vendor, in order to purchase goods without paying
11 retail sales tax is guilty of perjury under chapter 9A.72 RCW.

12 (b) Any person making tax exempt purchases under this section by
13 displaying proof of identification not his or her own, or counterfeit
14 identification, with intent to violate the provisions of this section,
15 is guilty of a misdemeanor and, in addition, is liable for the tax and
16 subject to a penalty equal to the greater of one hundred dollars or the
17 tax due on such purchases.

18 (6)(a) Any vendor who makes sales without collecting the tax and
19 who fails to maintain records of sales to nonresidents as provided in
20 this section is personally liable for the amount of tax due.

21 (b) Any vendor who makes sales without collecting the retail sales
22 tax under this section and who has actual knowledge that the
23 purchaser's proof of identification establishing out-of-state residency
24 is fraudulent is guilty of a misdemeanor and, in addition, is liable
25 for the tax and subject to a penalty equal to the greater of one
26 thousand dollars or the tax due on such sales. In addition, both the
27 purchaser and the vendor are liable for any penalties and interest
28 assessable under chapter 82.32 RCW.

29 PART IV

30 Imposing Sales Tax on Janitorial Services

31 **Sec. 401.** RCW 82.04.050 and 2011 c 174 s 202 are each amended to
32 read as follows:

33 (1)(a) "Sale at retail" or "retail sale" means every sale of
34 tangible personal property (including articles produced, fabricated, or
35 imprinted) to all persons irrespective of the nature of their business
36 and including, among others, without limiting the scope hereof, persons

1 who install, repair, clean, alter, improve, construct, or decorate real
2 or personal property of or for consumers other than a sale to a person
3 who:

4 (i) Purchases for the purpose of resale as tangible personal
5 property in the regular course of business without intervening use by
6 such person, but a purchase for the purpose of resale by a regional
7 transit authority under RCW 81.112.300 is not a sale for resale; or

8 (ii) Installs, repairs, cleans, alters, imprints, improves,
9 constructs, or decorates real or personal property of or for consumers,
10 if such tangible personal property becomes an ingredient or component
11 of such real or personal property without intervening use by such
12 person; or

13 (iii) Purchases for the purpose of consuming the property purchased
14 in producing for sale as a new article of tangible personal property or
15 substance, of which such property becomes an ingredient or component or
16 is a chemical used in processing, when the primary purpose of such
17 chemical is to create a chemical reaction directly through contact with
18 an ingredient of a new article being produced for sale; or

19 (iv) Purchases for the purpose of consuming the property purchased
20 in producing ferrosilicon which is subsequently used in producing
21 magnesium for sale, if the primary purpose of such property is to
22 create a chemical reaction directly through contact with an ingredient
23 of ferrosilicon; or

24 (v) Purchases for the purpose of providing the property to
25 consumers as part of competitive telephone service, as defined in RCW
26 82.04.065; or

27 (vi) Purchases for the purpose of satisfying the person's
28 obligations under an extended warranty as defined in subsection (7) of
29 this section, if such tangible personal property replaces or becomes an
30 ingredient or component of property covered by the extended warranty
31 without intervening use by such person.

32 (b) The term includes every sale of tangible personal property that
33 is used or consumed or to be used or consumed in the performance of any
34 activity defined as a "sale at retail" or "retail sale" even though
35 such property is resold or used as provided in (a)(i) through (vi) of
36 this subsection following such use.

37 (c) The term also means every sale of tangible personal property to

1 persons engaged in any business that is taxable under RCW 82.04.280(1)
2 (a), (b), and (g), 82.04.290, and 82.04.2908.

3 (2) The term "sale at retail" or "retail sale" includes the sale of
4 or charge made for tangible personal property consumed and/or for labor
5 and services rendered in respect to the following:

6 (a) The installing, repairing, cleaning, altering, imprinting, or
7 improving of tangible personal property of or for consumers, including
8 charges made for the mere use of facilities in respect thereto, but
9 excluding charges made for the use of self-service laundry facilities,
10 and also excluding sales of laundry service to nonprofit health care
11 facilities, and excluding services rendered in respect to live animals,
12 birds and insects;

13 (b) The constructing, repairing, decorating, or improving of new or
14 existing buildings or other structures under, upon, or above real
15 property of or for consumers, including the installing or attaching of
16 any article of tangible personal property therein or thereto, whether
17 or not such personal property becomes a part of the realty by virtue of
18 installation, and also includes the sale of services or charges made
19 for the clearing of land and the moving of earth excepting the mere
20 leveling of land used in commercial farming or agriculture;

21 (c) The constructing, repairing, or improving of any structure
22 upon, above, or under any real property owned by an owner who conveys
23 the property by title, possession, or any other means to the person
24 performing such construction, repair, or improvement for the purpose of
25 performing such construction, repair, or improvement and the property
26 is then reconveyed by title, possession, or any other means to the
27 original owner;

28 (d) The cleaning, fumigating, razing, or moving of existing
29 buildings or structures(~~(, but does not include the charge made for~~
30 ~~janitorial services; and for purposes of this section the term~~
31 ~~"janitorial services" means those cleaning and caretaking services~~
32 ~~ordinarily performed by commercial janitor service businesses~~
33 ~~including, but not limited to, wall and window washing, floor cleaning~~
34 ~~and waxing, and the cleaning in place of rugs, drapes and upholstery.~~
35 ~~The term "janitorial services" does not include painting, papering,~~
36 ~~repairing, furnace or septic tank cleaning, snow removal or~~
37 ~~sandblasting));~~

1 (e) Automobile towing and similar automotive transportation
2 services, but not in respect to those required to report and pay taxes
3 under chapter 82.16 RCW;

4 (f) The furnishing of lodging and all other services by a hotel,
5 rooming house, tourist court, motel, trailer camp, and the granting of
6 any similar license to use real property, as distinguished from the
7 renting or leasing of real property, and it is presumed that the
8 occupancy of real property for a continuous period of one month or more
9 constitutes a rental or lease of real property and not a mere license
10 to use or enjoy the same. For the purposes of this subsection, it is
11 presumed that the sale of and charge made for the furnishing of lodging
12 for a continuous period of one month or more to a person is a rental or
13 lease of real property and not a mere license to enjoy the same;

14 (g) The installing, repairing, altering, or improving of digital
15 goods for consumers;

16 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of
17 this subsection when such sales or charges are for property, labor and
18 services which are used or consumed in whole or in part by such persons
19 in the performance of any activity defined as a "sale at retail" or
20 "retail sale" even though such property, labor and services may be
21 resold after such use or consumption. Nothing contained in this
22 subsection may be construed to modify subsection (1) of this section
23 and nothing contained in subsection (1) of this section may be
24 construed to modify this subsection.

25 (3) The term "sale at retail" or "retail sale" includes the sale of
26 or charge made for personal, business, or professional services
27 including amounts designated as interest, rents, fees, admission, and
28 other service emoluments however designated, received by persons
29 engaging in the following business activities:

30 (a) Amusement and recreation services including but not limited to
31 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
32 for sightseeing purposes, and others, when provided to consumers;

33 (b) Abstract, title insurance, and escrow services;

34 (c) Credit bureau services;

35 (d) Automobile parking and storage garage services;

36 (e) Landscape maintenance and horticultural services but excluding

37 (i) horticultural services provided to farmers and (ii) pruning,

1 trimming, repairing, removing, and clearing of trees and brush near
2 electric transmission or distribution lines or equipment, if performed
3 by or at the direction of an electric utility;

4 (f) Service charges associated with tickets to professional
5 sporting events; and

6 (g) The following personal services: Physical fitness services,
7 tanning salon services, tattoo parlor services, steam bath services,
8 turkish bath services, escort services, and dating services.

9 (4)(a) The term also includes the renting or leasing of tangible
10 personal property to consumers.

11 (b) The term does not include the renting or leasing of tangible
12 personal property where the lease or rental is for the purpose of
13 sublease or subrent.

14 (5) The term also includes the providing of "competitive telephone
15 service," "telecommunications service," or "ancillary services," as
16 those terms are defined in RCW 82.04.065, to consumers.

17 (6)(a) The term also includes the sale of prewritten computer
18 software to a consumer, regardless of the method of delivery to the end
19 user. For purposes of this subsection (6)(a), the sale of prewritten
20 computer software includes the sale of or charge made for a key or an
21 enabling or activation code, where the key or code is required to
22 activate prewritten computer software and put the software into use.
23 There is no separate sale of the key or code from the prewritten
24 computer software, regardless of how the sale may be characterized by
25 the vendor or by the purchaser.

26 The term "retail sale" does not include the sale of or charge made
27 for:

28 (i) Custom software; or

29 (ii) The customization of prewritten computer software.

30 (b)(i) The term also includes the charge made to consumers for the
31 right to access and use prewritten computer software, where possession
32 of the software is maintained by the seller or a third party,
33 regardless of whether the charge for the service is on a per use, per
34 user, per license, subscription, or some other basis.

35 (ii)(A) The service described in (b)(i) of this subsection (6)
36 includes the right to access and use prewritten computer software to
37 perform data processing.

1 (B) For purposes of this subsection (6)(b)(ii), "data processing"
2 means the systematic performance of operations on data to extract the
3 required information in an appropriate form or to convert the data to
4 usable information. Data processing includes check processing, image
5 processing, form processing, survey processing, payroll processing,
6 claim processing, and similar activities.

7 (7) The term also includes the sale of or charge made for an
8 extended warranty to a consumer. For purposes of this subsection,
9 "extended warranty" means an agreement for a specified duration to
10 perform the replacement or repair of tangible personal property at no
11 additional charge or a reduced charge for tangible personal property,
12 labor, or both, or to provide indemnification for the replacement or
13 repair of tangible personal property, based on the occurrence of
14 specified events. The term "extended warranty" does not include an
15 agreement, otherwise meeting the definition of extended warranty in
16 this subsection, if no separate charge is made for the agreement and
17 the value of the agreement is included in the sales price of the
18 tangible personal property covered by the agreement. For purposes of
19 this subsection, "sales price" has the same meaning as in RCW
20 82.08.010.

21 (8)(a) The term also includes the following sales to consumers of
22 digital goods, digital codes, and digital automated services:

23 (i) Sales in which the seller has granted the purchaser the right
24 of permanent use;

25 (ii) Sales in which the seller has granted the purchaser a right of
26 use that is less than permanent;

27 (iii) Sales in which the purchaser is not obligated to make
28 continued payment as a condition of the sale; and

29 (iv) Sales in which the purchaser is obligated to make continued
30 payment as a condition of the sale.

31 (b) A retail sale of digital goods, digital codes, or digital
32 automated services under this subsection (8) includes any services
33 provided by the seller exclusively in connection with the digital
34 goods, digital codes, or digital automated services, whether or not a
35 separate charge is made for such services.

36 (c) For purposes of this subsection, "permanent" means perpetual or
37 for an indefinite or unspecified length of time. A right of permanent
38 use is presumed to have been granted unless the agreement between the

1 seller and the purchaser specifies or the circumstances surrounding the
2 transaction suggest or indicate that the right to use terminates on the
3 occurrence of a condition subsequent.

4 (9) The term also includes the charge made for providing tangible
5 personal property along with an operator for a fixed or indeterminate
6 period of time. A consideration of this is that the operator is
7 necessary for the tangible personal property to perform as designed.
8 For the purpose of this subsection (9), an operator must do more than
9 maintain, inspect, or set up the tangible personal property.

10 (10) The term does not include the sale of or charge made for labor
11 and services rendered in respect to the building, repairing, or
12 improving of any street, place, road, highway, easement, right-of-way,
13 mass public transportation terminal or parking facility, bridge,
14 tunnel, or trestle which is owned by a municipal corporation or
15 political subdivision of the state or by the United States and which is
16 used or to be used primarily for foot or vehicular traffic including
17 mass transportation vehicles of any kind.

18 (11) The term also does not include sales of chemical sprays or
19 washes to persons for the purpose of postharvest treatment of fruit for
20 the prevention of scald, fungus, mold, or decay, nor does it include
21 sales of feed, seed, seedlings, fertilizer, agents for enhanced
22 pollination including insects such as bees, and spray materials to:
23 (a) Persons who participate in the federal conservation reserve
24 program, the environmental quality incentives program, the wetlands
25 reserve program, and the wildlife habitat incentives program, or their
26 successors administered by the United States department of agriculture;
27 (b) farmers for the purpose of producing for sale any agricultural
28 product; and (c) farmers acting under cooperative habitat development
29 or access contracts with an organization exempt from federal income tax
30 under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or
31 the Washington state department of fish and wildlife to produce or
32 improve wildlife habitat on land that the farmer owns or leases.

33 (12) The term does not include the sale of or charge made for labor
34 and services rendered in respect to the constructing, repairing,
35 decorating, or improving of new or existing buildings or other
36 structures under, upon, or above real property of or for the United
37 States, any instrumentality thereof, or a county or city housing
38 authority created pursuant to chapter 35.82 RCW, including the

1 installing, or attaching of any article of tangible personal property
2 therein or thereto, whether or not such personal property becomes a
3 part of the realty by virtue of installation. Nor does the term
4 include the sale of services or charges made for the clearing of land
5 and the moving of earth of or for the United States, any
6 instrumentality thereof, or a county or city housing authority. Nor
7 does the term include the sale of services or charges made for cleaning
8 up for the United States, or its instrumentalities, radioactive waste
9 and other by-products of weapons production and nuclear research and
10 development.

11 (13) The term does not include the sale of or charge made for
12 labor, services, or tangible personal property pursuant to agreements
13 providing maintenance services for bus, rail, or rail fixed guideway
14 equipment when a regional transit authority is the recipient of the
15 labor, services, or tangible personal property, and a transit agency,
16 as defined in RCW 81.104.015, performs the labor or services.

17 (14) The term does not include the sale for resale of any service
18 described in this section if the sale would otherwise constitute a
19 "sale at retail" and "retail sale" under this section.

20 **PART V**

21 **Modifying Tax Preferences for High-Tech Research and Development**

22 **Sec. 501.** RCW 82.04.4452 and 2010 c 114 s 114 are each amended to
23 read as follows:

24 (1) In computing the tax imposed under this chapter, a credit is
25 allowed for each person whose research and development spending during
26 the year in which the credit is claimed exceeds 0.92 percent of the
27 person's taxable amount during the same calendar year.

28 (2)(a) The credit is calculated as follows:

29 ((+a)) (i) Determine the greater of the amount of qualified
30 research and development expenditures of a person or eighty percent of
31 amounts received by a person other than a public educational or
32 research institution in compensation for the conduct of qualified
33 research and development;

34 ((+b)) (ii) Subtract 0.92 percent of the person's taxable amount
35 from the amount determined under (a)(i) of this subsection;

1 ~~((c))~~ (iii) Multiply the amount determined under ~~((b))~~ (a)(ii)
2 of this subsection by ~~(the following:~~

3 ~~(i) For the period June 10, 2004, through December 31, 2006, the~~
4 ~~person's average tax rate for the calendar year for which the credit is~~
5 ~~claimed;~~

6 ~~(ii) For the calendar year ending December 31, 2007, the greater of~~
7 ~~the person's average tax rate for that calendar year or 0.75 percent;~~

8 ~~(iii) For the calendar year ending December 31, 2008, the greater~~
9 ~~of the person's average tax rate for that calendar year or 1.0 percent;~~

10 ~~(iv) For the calendar year ending December 31, 2009, the greater of~~
11 ~~the person's average tax rate for that calendar year or 1.25 percent;~~

12 ~~(v) For the calendar year ending December 31, 2010, and~~
13 ~~thereafter,)) 1.50 percent.~~

14 (b) For purposes of calculating the credit, if a person's reporting
15 period is less than annual, the person may use an estimated average tax
16 rate for the calendar year for which the credit is claimed by using the
17 person's average tax rate for each reporting period. A person who uses
18 an estimated average tax rate must make an adjustment to the total
19 credit claimed for the calendar year using the person's actual average
20 tax rate for the calendar year when the person files its last return
21 for the calendar year for which the credit is claimed.

22 (3) Any person entitled to the credit provided in subsection (2) of
23 this section as a result of qualified research and development
24 conducted under contract may assign all or any portion of the credit to
25 the person contracting for the performance of the qualified research
26 and development.

27 (4) The credit, including any credit assigned to a person under
28 subsection (3) of this section, must be claimed against taxes due for
29 the same calendar year in which the qualified research and development
30 expenditures are incurred. The credit, including any credit assigned
31 to a person under subsection (3) of this section, for each calendar
32 year may not exceed the lesser of two million dollars or the amount of
33 tax otherwise due under this chapter for the calendar year.

34 (5) For any person claiming the credit, including any credit
35 assigned to a person under subsection (3) of this section, whose
36 research and development spending during the calendar year in which the
37 credit is claimed fails to exceed 0.92 percent of the person's taxable
38 amount during the same calendar year or who is otherwise ineligible,

1 the department must declare the taxes against which the credit was
2 claimed to be immediately due and payable. The department must assess
3 interest, but not penalties, on the taxes against which the credit was
4 claimed. Interest must be assessed at the rate provided for delinquent
5 excise taxes under chapter 82.32 RCW, retroactively to the date the
6 credit was claimed, and accrues until the taxes against which the
7 credit was claimed are repaid. Any credit assigned to a person under
8 subsection (3) of this section that is disallowed as a result of this
9 section may be claimed by the person who performed the qualified
10 research and development subject to the limitations set forth in
11 subsection (4) of this section.

12 (6) A person may not claim a credit under this section if the
13 person reported an annual gross amount of ten million dollars or more
14 in the prior calendar year. Taxpayers disallowed from claiming the
15 credit under this subsection (6) are not required to refund any credit
16 claimed in calendar year 2013 prior to the effective date of this
17 section.

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

20 ~~((7) For the purpose of this section:)~~ The definitions in this
21 subsection apply throughout this section unless the context clearly
22 requires otherwise.

23 (8)(a) "Average tax rate" means a person's total tax liability
24 under this chapter for the calendar year for which the credit is
25 claimed divided by the taxpayer's total taxable amount under this
26 chapter for the calendar year for which the credit is claimed.

27 (b) "Qualified research and development expenditures" means
28 operating expenses, including wages, compensation of a proprietor or a
29 partner in a partnership as determined under rules adopted by the
30 department, benefits, supplies, and computer expenses, directly
31 incurred in qualified research and development by a person claiming the
32 credit provided in this section. The term does not include amounts
33 paid to a person other than a public educational or research
34 institution to conduct qualified research and development. Nor does
35 the term include capital costs and overhead, such as expenses for land,
36 structures, or depreciable property.

37 (c) "Qualified research and development" (~~shall have~~) has the
38 same meaning as provided in RCW 82.63.010.

1 (d) "Research and development spending" means qualified research
2 and development expenditures plus eighty percent of amounts paid to a
3 person other than a public educational or research institution to
4 conduct qualified research and development.

5 (e) "Taxable amount" means the taxable amount subject to the tax
6 imposed in this chapter required to be reported on the person's
7 combined excise tax returns for the calendar year for which the credit
8 is claimed, less any taxable amount for which a credit is allowed under
9 RCW 82.04.440.

10 ~~((+8))~~ (9) This section expires January 1, 2015.

11 **Sec. 502.** RCW 82.63.030 and 2008 c 15 s 4 are each amended to read
12 as follows:

13 (1) Except as provided in subsection (2) of this section, the
14 department ~~((shall))~~ must issue a sales and use tax deferral
15 certificate for state and local sales and use taxes due under chapters
16 82.08, 82.12, and 82.14 RCW on each eligible investment project.

17 (2) No certificate may be issued for an investment project that has
18 already received a deferral under chapter 82.60 RCW or this chapter,
19 except that an investment project for qualified research and
20 development that has already received a deferral may also receive an
21 additional deferral certificate for adapting the investment project for
22 use in pilot scale manufacturing.

23 (3) ~~((This section shall expire January 1, 2015.))~~ The department
24 may not issue a certificate under this section on or after July 1,
25 2013.

27 **PART VI**

28 **Eliminating the Public Utility Tax Deduction on Interstate Hauls**

29 **Sec. 601.** RCW 82.16.050 and 2007 c 330 s 1 are each amended to
30 read as follows:

31 In computing tax there may be deducted from the gross income the
32 following items:

33 (1) Amounts derived by municipally owned or operated public service
34 businesses, directly from taxes levied for the support or maintenance

1 thereof. This subsection may not be construed to exempt service
2 charges which are spread on the property tax rolls and collected as
3 taxes;

4 (2) Amounts derived from the sale of commodities to persons in the
5 same public service business as the seller, for resale as such within
6 this state. This deduction is allowed only with respect to water
7 distribution, gas distribution or other public service businesses which
8 furnish water, gas or any other commodity in the performance of public
9 service businesses;

10 (3) Amounts actually paid by a taxpayer to another person taxable
11 under this chapter as the latter's portion of the consideration due for
12 services furnished jointly by both, if the total amount has been
13 credited to and appears in the gross income reported for tax by the
14 former;

15 (4) The amount of cash discount actually taken by the purchaser or
16 customer;

17 (5) The amount of bad debts, as that term is used in 26 U.S.C. Sec.
18 166 of the federal internal revenue code, as amended (~~or renumbered~~)
19 as of January 1, 2003, on which tax was previously paid under this
20 chapter;

21 (6) Amounts derived from business which the state is prohibited
22 from taxing under the Constitution of this state or the Constitution or
23 laws of the United States;

24 (7) Amounts derived from the distribution of water through an
25 irrigation system, for irrigation purposes;

26 (8) Until July 1, 2013, amounts derived from the transportation of
27 commodities from points of origin in this state to final destination
28 outside this state, or from points of origin outside this state to
29 final destination in this state, with respect to which the carrier
30 grants to the shipper the privilege of stopping the shipment in transit
31 at some point in this state for the purpose of storing, manufacturing,
32 milling, or other processing, and thereafter forwards the same
33 commodity, or its equivalent, in the same or converted form, under a
34 through freight rate from point of origin to final destination;

35 (9) Amounts derived from the transportation of commodities from
36 points of origin in the state to an export elevator, wharf, dock or
37 ship side on tidewater or its navigable tributaries to be forwarded,
38 without intervening transportation, by vessel, in their original form,

1 to interstate or foreign destinations. No deduction is allowed under
2 this subsection when the point of origin and the point of delivery to
3 the export elevator, wharf, dock, or ship side are located within the
4 corporate limits of the same city or town;

5 (10) Amounts derived from the transportation of agricultural
6 commodities, not including manufactured substances or articles, from
7 points of origin in the state to interim storage facilities in this
8 state for transshipment, without intervening transportation, to an
9 export elevator, wharf, dock, or ship side on tidewater or its
10 navigable tributaries to be forwarded, without intervening
11 transportation, by vessel, in their original form, to interstate or
12 foreign destinations. If agricultural commodities are transshipped
13 from interim storage facilities in this state to storage facilities at
14 a port on tidewater or its navigable tributaries, the same agricultural
15 commodity dealer must operate both the interim storage facilities and
16 the storage facilities at the port.

17 (a) The deduction under this subsection is available only when the
18 person claiming the deduction obtains a certificate from the
19 agricultural commodity dealer operating the interim storage facilities,
20 in a form and manner prescribed by the department, certifying that:

21 (i) More than ninety-six percent of all of the type of agricultural
22 commodity delivered by the person claiming the deduction under this
23 subsection and delivered by all other persons to the dealer's interim
24 storage facilities during the preceding calendar year was shipped by
25 vessel in original form to interstate or foreign destinations; and

26 (ii) Any of the agricultural commodity that is transshipped to
27 ports on tidewater or its navigable tributaries will be received at
28 storage facilities operated by the same agricultural commodity dealer
29 and will be shipped from such facilities, without intervening
30 transportation, by vessel, in their original form, to interstate or
31 foreign destinations.

32 (b) As used in this subsection, "agricultural commodity" has the
33 same meaning as agricultural product in RCW 82.04.213;

34 (11) Amounts derived from the production, sale, or transfer of
35 electrical energy for resale within or outside the state or for
36 consumption outside the state;

37 (12) Amounts derived from the distribution of water by a nonprofit

1 water association and used for capital improvements by that nonprofit
2 water association;

3 (13) Amounts paid by a sewerage collection business taxable under
4 RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the
5 treatment or disposal of sewage;

6 (14) Amounts derived from fees or charges imposed on persons for
7 transit services provided by a public transportation agency. For the
8 purposes of this subsection, "public transportation agency" means a
9 municipality, as defined in RCW 35.58.272, and urban public
10 transportation systems, as defined in RCW 47.04.082. Public
11 transportation agencies (~~shall~~) must spend an amount equal to the
12 reduction in tax provided by this tax deduction solely to adjust routes
13 to improve access for citizens using food banks and senior citizen
14 services or to extend or add new routes to assist low-income citizens
15 and seniors;

16 (15) Until July 1, 2013, amounts received from interstate
17 transportation. For purposes of this subsection, "interstate
18 transportation" means transporting persons or property between states
19 or between a state and a foreign country. "State" means a state of the
20 United States, the District of Columbia, the Commonwealth of Puerto
21 Rico, and any territory or possession of the United States.

22 NEW SECTION. Sec. 602. A new section is added to chapter 82.16
23 RCW to read as follows:

24 (1) Persons taxable both within and without this state on the
25 business of transporting persons or property for hire must apportion to
26 this state that portion of gross income as provided in this section.

27 (2)(a) Except as otherwise provided in this section, gross income
28 must be apportioned to this state based on the ratio that revenue miles
29 of the person in this state during the tax period bear to the revenue
30 miles of the person everywhere during the tax period.

31 (b)(i) If both property and passengers are transported, a person
32 must determine the portion of gross income apportioned to this state by
33 first computing separate percentages as provided in (a) of this
34 subsection for property transported and for passengers transported.

35 (ii) Then separately divide gross income for each activity by the
36 total gross income from transporting persons and property for hire.

1 (iii) Then multiply the percentage for property transported as
2 determined under (a) of this subsection by the percentage of gross
3 income from transporting property as determined under (b)(ii) of this
4 subsection, and multiply the percentage for persons transported as
5 determined under (a) of this subsection by the percentage of gross
6 income from transporting persons as determined under (b)(ii) of this
7 subsection.

8 (iv) Then sum the results of both calculations in (b)(iii) of this
9 subsection and use this percentage to determine the portion of gross
10 income apportioned to this state from transporting persons and property
11 for hire.

12 (3) For persons that transport gas, oil, petroleum products, or
13 other products by pipeline, gross income must be apportioned to this
14 state based on the ratio that the total number of traffic units in this
15 state during the tax period bear to the total number of traffic units
16 everywhere during the tax period.

17 (4) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.

19 (a) "Revenue mile" means the transportation of one net ton of
20 property or one passenger, for the distance of one mile.

21 (b)(i) "Traffic unit" means the movement of one unit of product for
22 a distance of one mile.

23 (ii) For purposes of this subsection (4)(b), "one unit" means one
24 barrel consisting of forty-two United States gallons, except that for
25 natural gas and manufactured gas, "one unit" means one thousand cubic
26 feet of gas.

27 PART VII

28 **Narrowing B&O and Sales and Use Tax Exemptions for Import Commerce**

29 **Sec. 701.** RCW 82.04.610 and 2007 c 477 s 2 are each amended to
30 read as follows:

31 (1) This chapter does not apply to the sale of tangible personal
32 property in ~~((import or))~~ export commerce or to the sale of aerospace
33 products in import commerce.

34 (2) ~~((Tangible personal property))~~ (a) An aerospace product is in
35 import commerce while the ~~((property))~~ product is in the process of
36 import transportation. Except as provided in (a)(i) through ~~((e))~~

1 (iii) of this subsection, ~~((property))~~ an aerospace product is in the
2 process of import transportation from the time the ~~((property))~~ product
3 begins its transportation at a point outside of the United States until
4 the time that the ~~((property))~~ product is delivered to the buyer in
5 this state. ~~((Property))~~ An aerospace product is also in the process
6 of import transportation if it is merely flowing through this state on
7 its way to a destination in some other state or country. However,
8 ~~((property))~~ an aerospace product is no longer in the process of import
9 transportation when the ~~((property))~~ product is:

10 ~~((+a))~~ (i) Put to actual use in any state, territory, or
11 possession of the United States for any purpose;

12 ~~((+b))~~ (ii) Resold by the importer or any other person after the
13 ~~((property))~~ product has arrived in this state or any other state,
14 territory, or possession of the United States, regardless of whether
15 the ~~((property))~~ product is in its original unbroken package or
16 container; or

17 ~~((+c))~~ (iii) Processed, handled, or otherwise stopped in transit
18 for a business purpose other than shipping needs, if the processing,
19 handling, or other stoppage of transit occurs within the United States,
20 including any of its possessions or territories, or the territorial
21 waters of this state or any other state, regardless of whether the
22 processing, handling, or other stoppage of transit occurs within a
23 foreign trade zone.

24 (b) For the purposes of this subsection (2), "aerospace product"
25 has the same meaning as provided in RCW 82.08.975.

26 (3)(a) Tangible personal property is in export commerce when the
27 seller delivers the property to:

28 (i) The buyer at a destination in a foreign country;

29 (ii) A carrier consigned to and for transportation to a destination
30 in a foreign country;

31 (iii) The buyer at shipside or aboard the buyer's vessel or other
32 vehicle of transportation under circumstances where it is clear that
33 the process of exportation of the property has begun; or

34 (iv) The buyer in this state if the property is capable of being
35 transported to a foreign destination under its own power, the seller
36 files a shipper's export declaration with respect to the property
37 listing the seller as the exporter, and the buyer immediately

1 transports the property directly to a destination in a foreign country.
2 This subsection (3)(a)(iv) does not apply to sales of motor vehicles as
3 defined in RCW 46.04.320.

4 (b) The exemption under this subsection (3) applies with respect to
5 property delivered to the buyer in this state if, at the time of
6 delivery, there is a certainty of export, and the process of export has
7 begun. The process of exportation will not be deemed to have begun if
8 the property is merely in storage awaiting shipment, even though there
9 is reasonable certainty that the property will be exported. The
10 intention to export, as evidenced for example, by financial and
11 contractual relationships does not indicate certainty of export. The
12 process of exportation begins when the property starts its final and
13 certain continuous movement to a destination in a foreign country.

14 (4) Persons claiming an exemption under this section must keep and
15 maintain records for the period required by RCW 82.32.070 establishing
16 their right to the exemption.

17 PART VIII

18 Repealing the Preferential Rate B&O Rate for Sellers of Prescription 19 Drugs

20 NEW SECTION. **Sec. 801.** RCW 82.04.272 (Tax on warehousing and
21 reselling prescription drugs) and 2003 c 168 s 401 & 1998 c 343 s 1 are
22 each repealed.

23 PART IX

24 The Use Tax Exemption for Extracted Fuel

25 **Sec. 901.** RCW 82.12.0263 and 1980 c 37 s 62 are each amended to
26 read as follows:

27 The provisions of this chapter (~~(shall)~~) do not apply in respect to
28 the use of hog fuel by the extractor or manufacturer thereof when used
29 directly in the operation of the particular extractive operation or
30 manufacturing plant which produced or manufactured the same. For
31 purposes of this section, "hog fuel" means wood waste and other wood
32 residuals, including forest derived biomass, but does not include
33 firewood or wood pellets. "Hog fuel" also includes organic by-products
34 of pulp, paper, and wood manufacturing processes.

1 provided in this section, the surcharge is equal to 0.052 percent. The
2 surcharge is added to the rates provided in RCW 82.04.260(~~((+11+))~~) (9)
3 (a), (b), (c), and (d). The surcharge and this section expire July 1,
4 2024.

5 (2) All receipts from the surcharge imposed under this section must
6 be deposited into the forest and fish support account created in RCW
7 76.09.405.

8 (3)(a) The surcharge imposed under this section is suspended if:

9 (i) Receipts from the surcharge total at least eight million
10 dollars during any fiscal biennium; or

11 (ii) The office of financial management certifies to the department
12 that the federal government has appropriated at least two million
13 dollars for participation in forest and fish report-related activities
14 by federally recognized Indian tribes located within the geographical
15 boundaries of the state of Washington for any federal fiscal year.

16 (b)(i) The suspension of the surcharge under (a)(i) of this
17 subsection (3) takes effect on the first day of the calendar month that
18 is at least thirty days after the end of the month during which the
19 department determines that receipts from the surcharge total at least
20 eight million dollars during the fiscal biennium. The surcharge is
21 imposed again at the beginning of the following fiscal biennium.

22 (ii) The suspension of the surcharge under (a)(ii) of this
23 subsection (3) takes effect on the later of the first day of October of
24 any federal fiscal year for which the federal government appropriates
25 at least two million dollars for participation in forest and fish
26 report-related activities by federally recognized Indian tribes located
27 within the geographical boundaries of the state of Washington, or the
28 first day of a calendar month that is at least thirty days following
29 the date that the office of financial management makes a certification
30 to the department under subsection (5) of this section. The surcharge
31 is imposed again on the first day of the following July.

32 (4)(a) If, by October 1st of any federal fiscal year, the office of
33 financial management certifies to the department that the federal
34 government has appropriated funds for participation in forest and fish
35 report-related activities by federally recognized Indian tribes located
36 within the geographical boundaries of the state of Washington but the
37 amount of the appropriation is less than two million dollars, the

1 department must adjust the surcharge in accordance with this
2 subsection.

3 (b) The department must adjust the surcharge by an amount that the
4 department estimates will cause the amount of funds deposited into the
5 forest and fish support account for the state fiscal year that begins
6 July 1st and that includes the beginning of the federal fiscal year for
7 which the federal appropriation is made, to be reduced by twice the
8 amount of the federal appropriation for participation in forest and
9 fish report-related activities by federally recognized Indian tribes
10 located within the geographical boundaries of the state of Washington.

11 (c) Any adjustment in the surcharge takes effect at the beginning
12 of a calendar month that is at least thirty days after the date that
13 the office of financial management makes the certification under
14 subsection (5) of this section.

15 (d) The surcharge is imposed again at the rate provided in
16 subsection (1) of this section on the first day of the following state
17 fiscal year unless the surcharge is suspended under subsection (3) of
18 this section or adjusted for that fiscal year under this subsection.

19 (e) Adjustments of the amount of the surcharge by the department
20 are final and may not be used to challenge the validity of the
21 surcharge imposed under this section.

22 (f) The department must provide timely notice to affected taxpayers
23 of the suspension of the surcharge or an adjustment of the surcharge.

24 (5) The office of financial management must make the certification
25 to the department as to the status of federal appropriations for tribal
26 participation in forest and fish report-related activities.

27 **Sec. 1003.** RCW 82.04.334 and 2010 1st sp.s. c 23 s 512 are each
28 amended to read as follows:

29 This chapter does not apply to any sale of standing timber excluded
30 from the definition of "sale" in RCW 82.45.010(3). The definitions in
31 RCW 82.04.260(~~((+11))~~) (9) apply to this section.

32 **Sec. 1004.** RCW 82.04.4463 and 2010 1st sp.s. c 23 s 515 are each
33 amended to read as follows:

34 (1) In computing the tax imposed under this chapter, a credit is
35 allowed for property taxes and leasehold excise taxes paid during the
36 calendar year.

1 (2) The credit is equal to:

2 (a)(i)(A) Property taxes paid on buildings, and land upon which the
3 buildings are located, constructed after December 1, 2003, and used
4 exclusively in manufacturing commercial airplanes or components of such
5 airplanes; and

6 (B) Leasehold excise taxes paid with respect to buildings
7 constructed after January 1, 2006, the land upon which the buildings
8 are located, or both, if the buildings are used exclusively in
9 manufacturing commercial airplanes or components of such airplanes; and

10 (C) Property taxes or leasehold excise taxes paid on, or with
11 respect to, buildings constructed after June 30, 2008, the land upon
12 which the buildings are located, or both, and used exclusively for
13 aerospace product development, manufacturing tooling specifically
14 designed for use in manufacturing commercial airplanes or their
15 components, or in providing aerospace services, by persons not within
16 the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable
17 under RCW 82.04.290(3), 82.04.260(~~(+10+)~~) (8)(b), or 82.04.250(3); or

18 (ii) Property taxes attributable to an increase in assessed value
19 due to the renovation or expansion, after: (A) December 1, 2003, of a
20 building used exclusively in manufacturing commercial airplanes or
21 components of such airplanes; and (B) June 30, 2008, of buildings used
22 exclusively for aerospace product development, manufacturing tooling
23 specifically designed for use in manufacturing commercial airplanes or
24 their components, or in providing aerospace services, by persons not
25 within the scope of (a)(ii)(A) of this subsection (2) and are taxable
26 under RCW 82.04.290(3), 82.04.260(~~(+10+)~~) (8)(b), or 82.04.250(3); and

27 (b) An amount equal to:

28 (i)(A) Property taxes paid, by persons taxable under RCW
29 82.04.260(~~(+10+)~~) (8)(a), on machinery and equipment exempt under RCW
30 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

31 (B) Property taxes paid, by persons taxable under RCW
32 82.04.260(~~(+10+)~~) (8)(b), on machinery and equipment exempt under RCW
33 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

34 (C) Property taxes paid, by persons taxable under RCW 82.04.250(3)
35 or 82.04.290(3), on computer hardware, computer peripherals, and
36 software exempt under RCW 82.08.975 or 82.12.975 and acquired after
37 June 30, 2008.

1 (ii) For purposes of determining the amount eligible for credit
2 under (i)(A) and (B) of this subsection (2)(b), the amount of property
3 taxes paid is multiplied by a fraction.

4 (A) The numerator of the fraction is the total taxable amount
5 subject to the tax imposed under RCW 82.04.260(~~(+10)~~) (8) (a) or (b)
6 on the applicable business activities of manufacturing commercial
7 airplanes, components of such airplanes, or tooling specifically
8 designed for use in the manufacturing of commercial airplanes or
9 components of such airplanes.

10 (B) The denominator of the fraction is the total taxable amount
11 subject to the tax imposed under all manufacturing classifications in
12 chapter 82.04 RCW.

13 (C) For purposes of both the numerator and denominator of the
14 fraction, the total taxable amount refers to the total taxable amount
15 required to be reported on the person's returns for the calendar year
16 before the calendar year in which the credit under this section is
17 earned. The department may provide for an alternative method for
18 calculating the numerator in cases where the tax rate provided in RCW
19 82.04.260(~~(+10)~~) (8) for manufacturing was not in effect during the
20 full calendar year before the calendar year in which the credit under
21 this section is earned.

22 (D) No credit is available under (b)(i)(A) or (B) of this
23 subsection (2) if either the numerator or the denominator of the
24 fraction is zero. If the fraction is greater than or equal to nine-
25 tenths, then the fraction is rounded to one.

26 (E) As used in (b)(ii)(C) of this subsection (2), "returns" means
27 the tax returns for which the tax imposed under this chapter is
28 reported to the department.

29 (3) The definitions in this subsection apply throughout this
30 section, unless the context clearly indicates otherwise.

31 (a) "Aerospace product development" has the same meaning as
32 provided in RCW 82.04.4461.

33 (b) "Aerospace services" has the same meaning given in RCW
34 82.08.975.

35 (c) "Commercial airplane" and "component" have the same meanings as
36 provided in RCW 82.32.550.

37 (4) A credit earned during one calendar year may be carried over to

1 be credited against taxes incurred in a subsequent calendar year, but
2 may not be carried over a second year. No refunds may be granted for
3 credits under this section.

4 (5) In addition to all other requirements under this title, a
5 person claiming the credit under this section must file a complete
6 annual report with the department under RCW 82.32.534.

7 (6) This section expires July 1, 2024.

8 **Sec. 1005.** RCW 82.04.460 and 2011 c 174 s 203 are each amended to
9 read as follows:

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

16 (2) The department must by rule provide a method of apportioning
17 the apportionable income of financial institutions, where such
18 apportionable income is taxable under RCW 82.04.290. The rule adopted
19 by the department must, to the extent feasible, be consistent with the
20 multistate tax commission's recommended formula for the apportionment
21 and allocation of net income of financial institutions as existing on
22 June 1, 2010, or such subsequent date as may be provided by the
23 department by rule, consistent with the purposes of this section,
24 except that:

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

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

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

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

3 (a) "Apportionable income" means gross income of the business
4 generated from engaging in apportionable activities, including income
5 received from apportionable activities performed outside this state if
6 the income would be taxable under this chapter if received from
7 activities in this state, less the exemptions and deductions allowable
8 under this chapter. For purposes of this subsection, "apportionable
9 activities" means only those activities taxed under:

10 (i) RCW 82.04.255;

11 (ii) RCW 82.04.260 (3), (~~(4), (5), (6), (7), (8), (9), and (12)~~)
12 (5), (6), and (10);

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

14 (iv) RCW 82.04.285;

15 (v) RCW 82.04.286;

16 (vi) RCW 82.04.290;

17 (vii) RCW 82.04.2907;

18 (viii) RCW 82.04.2908;

19 (ix) RCW 82.04.263, but only to the extent of any activity that
20 would be taxable under any of the provisions enumerated under (a)(i)
21 through (viii) of this subsection (4) if the tax classification in RCW
22 82.04.263 did not exist; and

23 (x) RCW 82.04.260(~~(13)~~) (11) and 82.04.280(1)(a), but only with
24 respect to advertising.

25 (b)(i) "Taxable in another state" means that the taxpayer is
26 subject to a business activities tax by another state on its income
27 received from engaging in apportionable activities; or the taxpayer is
28 not subject to a business activities tax by another state on its income
29 received from engaging in apportionable activities, but any other state
30 has jurisdiction to subject the taxpayer to a business activities tax
31 on such income under the substantial nexus standards in RCW
32 82.04.067(1).

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

35 **Sec. 1006.** RCW 82.08.806 and 2011 c 174 s 204 are each amended to
36 read as follows:

37 (1) The tax levied by RCW 82.08.020 does not apply to sales, to a

1 printer or publisher, of computer equipment, including repair parts and
2 replacement parts for such equipment, when the computer equipment is
3 used primarily in the printing or publishing of any printed material,
4 or to sales of or charges made for labor and services rendered in
5 respect to installing, repairing, cleaning, altering, or improving the
6 computer equipment. This exemption applies only to computer equipment
7 not otherwise exempt under RCW 82.08.02565.

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

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

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

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

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

24 (d) "Primarily" means greater than fifty percent as measured by
25 time.

26 (e) "Printer or publisher" means a person, as defined in RCW
27 82.04.030, who is subject to tax under RCW 82.04.260(~~(+13+)~~) (11) or
28 82.04.280(1)(a).

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

1 **Transfers to Education Legacy Trust Account**

2 NEW SECTION. **Sec. 1101.** A new section is added to chapter 82.32
3 RCW to read as follows:

4 (1) By the last workday of the first and third calendar quarters,
5 the state treasurer must transfer the amount specified in subsection
6 (2) of this section from the general fund to the education legacy trust
7 account. The first two transfers under this subsection (1) must occur
8 by April 30, 2013, and September 30, 2013.

9 (2) The department must estimate the increase in state general fund
10 revenues from the changes made under parts I through IX of this act for
11 the immediately preceding third and fourth calendar quarters for the
12 April transfer under subsection (1) of this section and the immediately
13 preceding first and second calendar quarters for the September transfer
14 under subsection (1) of this section. The department must notify the
15 state treasurer of this amount at least twenty days prior to the April
16 or September transfer under subsection (1) of this section.

17 **PART XII**

18 **Miscellaneous Technical Provisions**

19 NEW SECTION. **Sec. 1201.** (1) Except as otherwise provided in this
20 section, this act is necessary for the immediate preservation of the
21 public peace, health, or safety, or support of the state government and
22 its existing public institutions, and takes effect July 1, 2013.

23 (2) Section 102 of this act takes effect July 1, 2015.

24 NEW SECTION. **Sec. 1202.** Section 101 of this act expires July 1,
25 2015.

26 NEW SECTION. **Sec. 1203.** Sections 501 and 502 of this act expire
27 January 1, 2015.

28 NEW SECTION. **Sec. 1204.** Sections 1002 and 1004 of this act expire
29 July 1, 2024.

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