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**HOUSE BILL 2152**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Tharinger, Nealey, Manweller, Takko, Kretz, Vick, Fey, Fitzgibbon, and Robinson

AN ACT Relating to extending the business and occupation tax exemption for amounts received as credits against contracts with or funds provided by the Bonneville power administration; amending RCW 82.04.310; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preference contained in section 2 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase investment in energy efficiency and conservation programs, and to support efforts by utilities to acquire all cost-effective energy conservation as required under state law. To support this objective, it is the legislature's intent to make permanent the exemption from business and occupation tax amounts received by utilities in the form of credits against power contracts or received from the Bonneville power administration for energy conservation purposes, thereby inducing utilities to invest funds in energy conservation and efficiency programs, thereby reducing the amount of electric energy that such utilities must either generate or purchase, thereby reducing energy costs to utilities and customers.

**Sec.**  RCW 82.04.310 and 2014 c 216 s 302 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of chapter 82.16 RCW including amounts derived from activities for which a deduction is allowed under RCW 82.16.050. The exemption in this subsection does not apply to sales of natural gas, including compressed natural gas and liquefied natural gas, by a gas distribution business, if such sales are exempt from the tax imposed under chapter 82.16 RCW as provided in RCW 82.16.310.

(2) This chapter does not apply to amounts received by any person for the sale of electrical energy for resale within or outside the state.

(3)(a) This chapter does not apply to amounts received by any person for the sale of natural or manufactured gas in a calendar year if that person sells within the United States a total amount of natural or manufactured gas in that calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year.

(b) For purposes of determining whether a person has sold within the United States a total amount of natural or manufactured gas in a calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year, the following transfers of gas are not considered to be the sale of natural or manufactured gas:

(i) The transfer of any natural or manufactured gas as a result of the acquisition of another business, through merger or otherwise; or

(ii) The transfer of any natural or manufactured gas accomplished solely to comply with federal regulatory requirements imposed on the pipeline transportation of such gas when it is shipped by a third-party manager of a person's pipeline transportation.

(4) This chapter does not apply to amounts received by any person in the form of credits against power contracts with the Bonneville power administration, or funds provided by the Bonneville power administration, for the purpose of implementing energy conservation programs or demand-side management programs.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

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