

**SHB 1689 - H AMD 234**

By Representative Carlyle

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that statutes  
4 governing the taxation of in-state broadcasters have not been updated  
5 in decades. The legislature further finds that the calculation for  
6 the standard deduction for regional, national, and network  
7 advertising revenue requires the use of data from the federal  
8 communications commission (FCC), which the FCC has not collected  
9 since approximately 1981. The legislature further finds that this has  
10 resulted in the department of revenue disallowing the use of the  
11 standard deduction because the specific reference to FCC data in the  
12 statute cannot be changed by administrative rule. The legislature  
13 further finds that the existing statutory provisions relating to the  
14 out-of-state audience deduction for local advertising revenue need to  
15 be updated to reflect satellite systems, which did not exist at the  
16 time the statute was adopted, and station signal contours that are  
17 used to determine the out-of-state audience.

18 (2) Therefore, it is the legislature's sole intent to update and  
19 modernize the computational aspects of the in-state broadcaster tax  
20 provisions. It is not the legislature's intent to reaffirm, in any  
21 way, the underlying highly preferential tax treatment of this  
22 industry.

23 **Sec. 2.** RCW 82.04.280 and 2010 c 106 s 205 are each amended to  
24 read as follows:

25 (1) Upon every person engaging within this state in the business  
26 of: (a) Printing materials other than newspapers, and of publishing  
27 periodicals or magazines; (b) building, repairing or improving any  
28 street, place, road, highway, easement, right-of-way, mass public  
29 transportation terminal or parking facility, bridge, tunnel, or  
30 trestle which is owned by a municipal corporation or political  
31 subdivision of the state or by the United States and which is used or  
32 to be used, primarily for foot or vehicular traffic including mass  
33 transportation vehicles of any kind and including any readjustment,

1 reconstruction or relocation of the facilities of any public, private  
2 or cooperatively owned utility or railroad in the course of such  
3 building, repairing or improving, the cost of which readjustment,  
4 reconstruction, or relocation, is the responsibility of the public  
5 authority whose street, place, road, highway, easement, right-of-way,  
6 mass public transportation terminal or parking facility, bridge,  
7 tunnel, or trestle is being built, repaired or improved; (c)  
8 extracting for hire or processing for hire, except persons taxable as  
9 extractors for hire or processors for hire under another section of  
10 this chapter; (d) operating a cold storage warehouse or storage  
11 warehouse, but not including the rental of cold storage lockers; (e)  
12 representing and performing services for fire or casualty insurance  
13 companies as an independent resident managing general agent licensed  
14 under the provisions of chapter 48.17 RCW; (f) radio and television  
15 broadcasting, (~~excluding network, national and regional advertising~~  
16 ~~computed as a standard deduction based on the national average~~  
17 ~~thereof as annually reported by the federal communications~~  
18 ~~commission, or in lieu thereof by itemization by the individual~~  
19 ~~broadcasting station, and excluding that portion of revenue~~  
20 ~~represented by the out-of-state audience computed as a ratio to the~~  
21 ~~station's total audience as measured by the 100 micro-volt signal~~  
22 ~~strength and delivery by wire)) but excluding revenues from network,  
23 national, and regional advertising computed either: (i) As a standard  
24 deduction that the department must publish by rule by September 30,  
25 2015, and by September 30th of every fifth year thereafter, based on  
26 the national average thereof as reported by the United States census  
27 bureau's economic census or other source of information, or (ii) in  
28 lieu thereof by itemization by the individual broadcasting station,  
29 and excluding that portion of revenue represented by the out-of-state  
30 audience computed as a ratio to the broadcasting station's total  
31 audience as measured by the 0.5 millivolt/meter signal strength  
32 contour for AM radio, the one millivolt/meter or sixty dBu signal  
33 strength contour for FM radio, and the twenty-eight dBu signal  
34 strength contour for television channels two through six, the thirty-  
35 six dBu signal strength contour for television channels seven through  
36 thirteen, and the forty-one dBu signal strength contour for  
37 television channels fourteen through sixty-nine with delivery by  
38 wire, satellite, or any other means, if any; (g) engaging in  
39 activities which bring a person within the definition of consumer  
40 contained in RCW 82.04.190(6); as to such persons, the amount of tax~~

1 on such business is equal to the gross income of the business  
2 multiplied by the rate of 0.484 percent.

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

5 (a) "Cold storage warehouse" means a storage warehouse used to  
6 store fresh and/or frozen perishable fruits or vegetables, meat,  
7 seafood, dairy products, or fowl, or any combination thereof, at a  
8 desired temperature to maintain the quality of the product for  
9 orderly marketing.

10 (b) "Storage warehouse" means a building or structure, or any  
11 part thereof, in which goods, wares, or merchandise are received for  
12 storage for compensation, except field warehouses, fruit warehouses,  
13 fruit packing plants, warehouses licensed under chapter 22.09 RCW,  
14 public garages storing automobiles, railroad freight sheds, docks and  
15 wharves, and "self-storage" or "mini storage" facilities whereby  
16 customers have direct access to individual storage areas by separate  
17 entrance. "Storage warehouse" does not include a building or  
18 structure, or that part of such building or structure, in which an  
19 activity taxable under RCW 82.04.272 is conducted.

20 (c) "Periodical or magazine" means a printed publication, other  
21 than a newspaper, issued regularly at stated intervals at least once  
22 every three months, including any supplement or special edition of  
23 the publication.

24 **Sec. 3.** RCW 82.04.280 and 2010 c 106 s 206 are each amended to  
25 read as follows:

26 (1) Upon every person engaging within this state in the business  
27 of: (a) Printing materials other than newspapers, and of publishing  
28 periodicals or magazines; (b) building, repairing or improving any  
29 street, place, road, highway, easement, right-of-way, mass public  
30 transportation terminal or parking facility, bridge, tunnel, or  
31 trestle which is owned by a municipal corporation or political  
32 subdivision of the state or by the United States and which is used or  
33 to be used, primarily for foot or vehicular traffic including mass  
34 transportation vehicles of any kind and including any readjustment,  
35 reconstruction or relocation of the facilities of any public, private  
36 or cooperatively owned utility or railroad in the course of such  
37 building, repairing or improving, the cost of which readjustment,  
38 reconstruction, or relocation, is the responsibility of the public  
39 authority whose street, place, road, highway, easement, right-of-way,

1 mass public transportation terminal or parking facility, bridge,  
2 tunnel, or trestle is being built, repaired or improved; (c)  
3 extracting for hire or processing for hire, except persons taxable as  
4 extractors for hire or processors for hire under another section of  
5 this chapter; (d) operating a cold storage warehouse or storage  
6 warehouse, but not including the rental of cold storage lockers; (e)  
7 representing and performing services for fire or casualty insurance  
8 companies as an independent resident managing general agent licensed  
9 under the provisions of chapter 48.17 RCW; (f) radio and television  
10 broadcasting, (~~excluding network, national and regional advertising~~  
11 ~~computed as a standard deduction based on the national average~~  
12 ~~thereof as annually reported by the federal communications~~  
13 ~~commission, or in lieu thereof by itemization by the individual~~  
14 ~~broadcasting station, and excluding that portion of revenue~~  
15 ~~represented by the out-of-state audience computed as a ratio to the~~  
16 ~~station's total audience as measured by the 100 micro-volt signal~~  
17 ~~strength and delivery by wire)) but excluding revenues from network,  
18 national, and regional advertising computed either: (i) As a standard  
19 deduction that the department must publish by rule by September 30,  
20 2015, and by September 30th of every fifth year thereafter, based on  
21 the national average thereof as reported by the United States census  
22 bureau's economic census or other source of information, or (ii) in  
23 lieu thereof by itemization by the individual broadcasting station,  
24 and excluding that portion of revenue represented by the out-of-state  
25 audience computed as a ratio to the broadcasting station's total  
26 audience as measured by the 0.5 millivolt/meter signal strength  
27 contour for AM radio, the one millivolt/meter or sixty dBu signal  
28 strength contour for FM radio, and the twenty-eight dBu signal  
29 strength contour for television channels two through six, the thirty-  
30 six dBu signal strength contour for television channels seven through  
31 thirteen, and the forty-one dBu signal strength contour for  
32 television channels fourteen through sixty-nine with delivery by  
33 wire, satellite, or any other means, if any; (g) engaging in  
34 activities which bring a person within the definition of consumer  
35 contained in RCW 82.04.190(6); as to such persons, the amount of tax  
36 on such business is equal to the gross income of the business  
37 multiplied by the rate of 0.484 percent.~~

38 (2) For the purposes of this section, the following definitions  
39 apply unless the context clearly requires otherwise.

1 (a) "Cold storage warehouse" means a storage warehouse used to  
2 store fresh and/or frozen perishable fruits or vegetables, meat,  
3 seafood, dairy products, or fowl, or any combination thereof, at a  
4 desired temperature to maintain the quality of the product for  
5 orderly marketing.

6 (b) "Storage warehouse" means a building or structure, or any  
7 part thereof, in which goods, wares, or merchandise are received for  
8 storage for compensation, except field warehouses, fruit warehouses,  
9 fruit packing plants, warehouses licensed under chapter 22.09 RCW,  
10 public garages storing automobiles, railroad freight sheds, docks and  
11 wharves, and "self-storage" or "mini storage" facilities whereby  
12 customers have direct access to individual storage areas by separate  
13 entrance. "Storage warehouse" does not include a building or  
14 structure, or that part of such building or structure, in which an  
15 activity taxable under RCW 82.04.272 is conducted.

16 (c) "Periodical or magazine" means a printed publication, other  
17 than a newspaper, issued regularly at stated intervals at least once  
18 every three months, including any supplement or special edition of  
19 the publication.

20 **Sec. 4.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s 401  
21 are each reenacted and amended to read as follows:

22 (1)(a) Section 3, chapter ..., Laws of 2015 (section 3 of this  
23 act), section 206, chapter 106, Laws of 2010, sections 104, 110, 117,  
24 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, section 3,  
25 chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006, and  
26 section 4, chapter 149, Laws of 2003 are contingent upon the siting  
27 and commercial operation of a significant semiconductor microchip  
28 fabrication facility in the state of Washington.

29 (b) For the purposes of this section:

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

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

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

38 (2) Chapter 149, Laws of 2003 takes effect the first day of the  
39 month in which a contract for the construction of a significant

1 semiconductor fabrication facility is signed, as determined by the  
2 director of the department of revenue.

3 (3)(a) The department of revenue must provide notice of the  
4 effective date of section 3, chapter ..., Laws of 2015 (section 3 of  
5 this act), section 206, chapter 106, Laws of 2010, sections 104, 110,  
6 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010(~~{,}~~),  
7 section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of  
8 2006, and section 4, chapter 149, Laws of 2003 to affected taxpayers,  
9 the legislature, and others as deemed appropriate by the department.

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

22 NEW SECTION. **Sec. 5.** If section 3 of this act takes effect,  
23 section 2 of this act expires on the date section 3 of this act takes  
24 effect."

25 Correct the title.

EFFECT: Adds intent language. Eliminates the section of the bill  
that would codify the treatment of retransmission licensing revenue  
as royalty income. Makes a technical correction.

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