

SHB 2540 - H AMD 765

By Representative Nealey

ADOPTED 02/16/2016

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

3 "Sec. 1. RCW 82.32.534 and 2014 c 97 s 102 are each amended to  
4 read as follows:

5 (1)(a) Every person claiming a tax preference that requires a  
6 report under this section must file a complete annual report with the  
7 department. The report is due by (~~April 30th~~) May 31st of the year  
8 following any calendar year in which a person becomes eligible to  
9 claim the tax preference that requires a report under this section.  
10 The department may extend the due date for timely filing of annual  
11 reports under this section as provided in RCW 82.32.590.

12 (b) The report must include information detailing employment,  
13 wages, and employer-provided health and retirement benefits for  
14 employment positions in Washington for the year that the tax  
15 preference was claimed. However, persons engaged in manufacturing  
16 commercial airplanes or components of such airplanes may report  
17 employment, wage, and benefit information per job at the  
18 manufacturing site for the year that the tax preference was claimed.  
19 The report must not include names of employees. The report must also  
20 detail employment by the total number of full-time, part-time, and  
21 temporary positions for the year that the tax preference was claimed.

22 (c) Persons receiving the benefit of the tax preference provided  
23 by RCW 82.16.0421 or claiming any of the tax preferences provided by  
24 RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5)  
25 must indicate on the annual report the quantity of product produced  
26 in this state during the time period covered by the report.

27 (d) If a person filing a report under this section did not file a  
28 report with the department in the previous calendar year, the report  
29 filed under this section must also include employment, wage, and  
30 benefit information for the calendar year immediately preceding the  
31 calendar year for which a tax preference was claimed.

1 (2) As part of the annual report, the department may request  
2 additional information necessary to measure the results of, or  
3 determine eligibility for, the tax preference.

4 (3) Other than information requested under subsection (2) of this  
5 section, the information contained in an annual report filed under  
6 this section is not subject to the confidentiality provisions of RCW  
7 82.32.330 and may be disclosed to the public upon request.

8 (4)(a) Except as otherwise provided by law, if a person claims a  
9 tax preference that requires an annual report under this section but  
10 fails to submit a complete report by the due date or any extension  
11 under RCW 82.32.590, the department must declare:

12 (i) Thirty-five percent of the amount of the tax preference  
13 claimed for the previous calendar year to be immediately due and  
14 payable; and

15 (ii) An additional fifteen percent of the amount of the tax  
16 preference claimed for the previous calendar year to be immediately  
17 due and payable if the person has previously been assessed under this  
18 subsection (4) for failure to submit a report under this section for  
19 the same tax preference.

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

29 (5) The department must use the information from this section to  
30 prepare summary descriptive statistics by category. No fewer than  
31 three taxpayers may be included in any category. The department must  
32 report these statistics to the legislature each year by December  
33 ~~((1st))~~ 31st.

34 (6) For the purposes of this section:

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

37 (b) "Tax preference" has the meaning provided in RCW 43.136.021  
38 and includes only the tax preferences requiring a survey under this  
39 section.

1       **Sec. 2.** RCW 82.32.585 and 2014 c 97 s 103 are each amended to  
2 read as follows:

3       (1)(a) Every person claiming a tax preference that requires a  
4 survey under this section must file a complete annual survey with the  
5 department.

6       (i) Except as provided in (a)(ii) of this subsection, the survey  
7 is due by (~~April 30th~~) May 31st of the year following any calendar  
8 year in which a person becomes eligible to claim the tax preference  
9 that requires a survey under this section.

10       (ii) If the tax preference is a deferral of tax, the first survey  
11 must be filed by (~~April 30th~~) May 31st of the calendar year  
12 following the calendar year in which the investment project is  
13 certified by the department as operationally complete, and a survey  
14 must be filed by (~~April 30th~~) May 31st of each of the seven  
15 succeeding calendar years.

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

18       (2)(a) The survey must include the amount of the tax preference  
19 claimed for the calendar year covered by the survey. For a person  
20 that claimed an exemption provided in RCW 82.08.025651 or  
21 82.12.025651, the survey must include the amount of tax exempted  
22 under those sections in the prior calendar year for each general area  
23 or category of research and development for which exempt machinery  
24 and equipment and labor and services were acquired in the prior  
25 calendar year.

26       (b) The survey must also include the following information for  
27 employment positions in Washington, not to include names of  
28 employees, for the year that the tax preference was claimed:

29       (i) The number of total employment positions;

30       (ii) Full-time, part-time, and temporary employment positions as  
31 a percent of total employment;

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

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

1 (c) For persons claiming the tax preference provided under  
2 chapter 82.60 or 82.63 RCW, the survey must also include the number  
3 of new products or research projects by general classification, and  
4 the number of trademarks, patents, and copyrights associated with  
5 activities at the investment project.

6 (d) For persons claiming the credit provided under RCW  
7 82.04.4452, the survey must also include the qualified research and  
8 development expenditures during the calendar year for which the  
9 credit was claimed, the taxable amount during the calendar year for  
10 which the credit was claimed, the number of new products or research  
11 projects by general classification, the number of trademarks,  
12 patents, and copyrights associated with the research and development  
13 activities for which the credit was claimed, and whether the tax  
14 preference has been assigned, and who assigned the credit. The  
15 definitions in RCW 82.04.4452 apply to this subsection (2)(d).

16 (e) For persons claiming the tax exemption in RCW 82.08.025651 or  
17 82.12.025651, the survey must also include the general areas or  
18 categories of research and development for which machinery and  
19 equipment and labor and services were acquired, exempt from tax under  
20 RCW 82.08.025651 or 82.12.025651, in the prior calendar year.

21 (f) If the person filing a survey under this section did not file  
22 a survey with the department in the previous calendar year, the  
23 survey filed under this section must also include the employment,  
24 wage, and benefit information required under (b)(i) through (iv) of  
25 this subsection for the calendar year immediately preceding the  
26 calendar year for which a tax preference was claimed.

27 (3) As part of the annual survey, the department may request  
28 additional information necessary to measure the results of, or  
29 determine eligibility for, the tax preference.

30 (4) All information collected under this section, except the  
31 information required in subsection (2)(a) of this section, is deemed  
32 taxpayer information under RCW 82.32.330. Information required in  
33 subsection (2)(a) of this section is not subject to the  
34 confidentiality provisions of RCW 82.32.330 and may be disclosed to  
35 the public upon request, except as provided in subsection (5) of this  
36 section. If the amount of the tax preference claimed as reported on  
37 the survey is different than the amount actually claimed or otherwise  
38 allowed by the department based on the taxpayer's excise tax returns  
39 or other information known to the department, the amount actually  
40 claimed or allowed may be disclosed.

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

5 (6)(a) Except as provided in (b) of this subsection or as  
6 otherwise provided by law, if a person claims a tax preference that  
7 requires an annual survey under this section but fails to submit a  
8 complete annual survey by the due date of the survey or any extension  
9 under RCW 82.32.590, the department must declare:

10 (i) Thirty-five percent of the amount of the tax preference  
11 claimed for the previous calendar year to be immediately due; and

12 (ii) An additional fifteen percent of the amount of the tax  
13 preference claimed for the previous calendar year to be immediately  
14 due and payable, if the person has previously been assessed under  
15 this subsection (6) for failure to submit a survey under this section  
16 for the same tax preference.

17 (b) If the tax preference is a deferral of tax, the amount  
18 immediately due under this subsection is twelve and one-half percent  
19 of the deferred tax (~~is immediately due~~). If the economic benefits  
20 of the deferral are passed to a lessee, the lessee is responsible for  
21 payment to the extent the lessee has received the economic benefit.

22 ~~((b))~~ (c) The department (~~must assess interest, but not~~  
23 penalties, on the amounts due under this subsection. The interest  
24 must be assessed at the rate provided for delinquent taxes under this  
25 chapter, retroactively to the date the tax preference was claimed,  
26 and accrues until the taxes for which the tax preference was claimed  
27 are repaid. Amounts due under this subsection are not subject to the  
28 confidentiality provisions of RCW 82.32.330 and may be disclosed to  
29 the public upon request)) may not assess interest or penalties on  
30 amounts due under this subsection.

31 (7) The department must use the information from this section to  
32 prepare summary descriptive statistics by category. No fewer than  
33 three taxpayers may be included in any category. The department must  
34 report these statistics to the legislature each year by December  
35 ~~((1st))~~ 31st.

36 (8) For the purposes of this section:

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

1 (b) "Tax preference" has the meaning provided in RCW 43.136.021  
2 and includes only the tax preferences requiring a survey under this  
3 section.

4 NEW SECTION. **Sec. 3.** (1) In addition to applying prospectively,  
5 sections 1(4) and 2(6) of this act apply retroactively for a taxpayer  
6 who has filed an appeal regarding taxes, penalties, and interest owed  
7 under RCW 82.32.534 or 82.32.585 before January 1, 2016, and the  
8 appeal is pending before the department of revenue or the board of  
9 tax appeals as of the effective date of this section.

10 (2) Except for taxpayers described in subsection (1) of this  
11 section, sections 1(4) and 2(6) of this act apply to amounts due and  
12 payable under sections 1(4) and 2(6) of this act on or after July 1,  
13 2017.

14 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2016."

15 Correct the title.

EFFECT: Changes the initial penalty rate from 10 percent to 35 percent and delays the effective date to July 1, 2017, except for taxpayers currently under appeal. Changes the maximum penalty for not submitting the annual survey or report from 60 percent to 50 percent. The 50 percent penalty is only assessed if the taxpayer has previously been assessed a penalty for failure to submit a survey or report by the due date. Eliminates the authority under current law to impose interest in addition to any penalties that are assessed. Moves back the date by one month in which the Department of Revenue must publish its descriptive statistics. Makes technical corrections.

--- END ---