
HOUSE BILL 2540

State of Washington

64th Legislature

2016 Regular Session

By Representatives Nealey, Tharinger, Harris, Walsh, Ryu, Griffey, Hayes, Manweller, Pike, Smith, Stokesbary, MacEwen, Van De Wege, Johnson, Magendanz, Wilson, McBride, Hargrove, Schmick, Pollet, and Van Werven

Read first time 01/14/16. Referred to Committee on Finance.

1 AN ACT Relating to modifying the penalty for taxpayers that do
2 not submit an annual survey or report; amending RCW 82.32.534 and
3 82.32.585; creating a new section; and providing an effective date.

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

5 **Sec. 1.** RCW 82.32.534 and 2014 c 97 s 102 are each amended to
6 read as follows:

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

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

1 detail employment by the total number of full-time, part-time, and
2 temporary positions for the year that the tax preference was claimed.

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

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

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

16 (3) Other than information requested under subsection (2) of this
17 section, the information contained in an annual report filed under
18 this section is not subject to the confidentiality provisions of RCW
19 82.32.330 and may be disclosed to the public upon request.

20 (4) Except as otherwise provided by law, if a person claims a tax
21 preference that requires an annual report under this section but
22 fails to submit a complete report by the due date or any extension
23 under RCW 82.32.590, the department must declare ten percent of the
24 amount of the tax preference claimed for the previous calendar year
25 to be immediately due and payable. The department must assess
26 interest, but not penalties, on the amounts due under this
27 subsection. The interest must be assessed at the rate provided for
28 delinquent taxes under this chapter, retroactively to the date the
29 tax preference was claimed, and accrues until the taxes for which the
30 tax preference was claimed are repaid. Amounts due under this
31 subsection are not subject to the confidentiality provisions of RCW
32 82.32.330 and may be disclosed to the public upon request.

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

37 (6) For the purposes of this section:

38 (a) "Person" has the meaning provided in RCW 82.04.030 and also
39 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 **Sec. 2.** RCW 82.32.585 and 2014 c 97 s 103 are each amended to
5 read as follows:

6 (1)(a) Every person claiming a tax preference that requires a
7 survey under this section must file a complete annual survey with the
8 department.

9 (i) Except as provided in (a)(ii) of this subsection, the survey
10 is due by April 30th of the year following any calendar year in which
11 a person becomes eligible to claim the tax preference that requires a
12 survey under this section.

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

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

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

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

31 (i) The number of total employment positions;

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

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

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

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

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

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

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

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

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

1 allowed by the department based on the taxpayer's excise tax returns
2 or other information known to the department, the amount actually
3 claimed or allowed may be disclosed.

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

8 (6)(a) Except as otherwise provided by law, if a person claims a
9 tax preference that requires an annual survey under this section but
10 fails to submit a complete annual survey by the due date of the
11 survey or any extension under RCW 82.32.590, the department must
12 declare ten percent of the amount of the tax preference claimed for
13 the previous calendar year to be immediately due. If the tax
14 preference is a deferral of tax, twelve and one-half percent of the
15 deferred tax is immediately due. If the economic benefits of the
16 deferral are passed to a lessee, the lessee is responsible for
17 payment to the extent the lessee has received the economic benefit.

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

26 (7) The department must use the information from this section to
27 prepare summary descriptive statistics by category. No fewer than
28 three taxpayers may be included in any category. The department must
29 report these statistics to the legislature each year by December 1st.

30 (8) For the purposes of this section:

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

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

36 NEW SECTION. **Sec. 3.** In addition to applying prospectively,
37 this act applies retroactively for a taxpayer who has filed an appeal
38 regarding taxes, penalties, and interest owed under RCW 82.32.580
39 before January 1, 2016, and the appeal is pending before the

1 department of revenue or the board of tax appeals as of the effective
2 date of this section.

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

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