S-3890.1

SENATE BILL 6462

State of Washington 64th Legislature 2016 Regular Session

By Senators Bailey, Carlyle, Fain, and Frockt

Read first time 01/21/16. Referred to Committee on Ways & Means.

AN ACT Relating to a leasehold excise tax credit for properties of market value in excess of ten million dollars; amending RCW 82.29A.120; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** (1) This section is the tax preference performance statement for the tax preference provided in section 2 of this act. The 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.

(2) The legislature categorizes this tax preference as one intended to reduce structural inefficiencies in the state tax structure, as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to reduce the leasehold excise tax for certain taxpayers where the amount of leasehold excise tax exceeds what would be owed in property taxes if the property was owned by the taxpayer.

(4) To measure the effectiveness of the tax preference provided in section 2 of this act in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must determine the amount of

leasehold excise tax paid by taxpayers claiming the credit under section 2 of this act in comparison with the amount of leasehold excise taxes or property taxes paid by a sample of taxpayers occupying property geographically proximate to taxpayers claiming the credit under section 2 of this act. The amount of leasehold excise tax or property tax must be expressed in dollars per thousand dollars of assessed value and any other way the joint legislative audit and review committee deems necessary to clearly convey the data.

(5)(a) The information provided by taxpayers to the department of revenue and publicly available property tax data is intended to provide the informational basis for the evaluation under subsection (4) of this section.

(b) In addition to the data source described under (a) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under subsection (4) of this section.

(6) The amount of credit reported by a taxpayer to the department is not confidential tax information under RCW 82.32.330 and is disclosable.

Sec. 2. RCW 82.29A.120 and 2013 c 235 s 3 are each amended to read as follows:

After computation of the taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040, the following credits are allowed in determining the tax payable:

(1) For lessees and sublessees who would qualify for a property tax exemption under RCW 84.36.381 if the property were privately owned, the tax otherwise due after this credit ((~~shall~~)) must be reduced by a percentage equal to the percentage reduction in property tax that would result from the property tax exemption under RCW 84.36.381; ((~~and~~))

(2) A credit of thirty-three percent of the tax otherwise due is allowed with respect to a product lease; and

(3)(a) For a leasehold interest in real property owned by a state university, a credit is allowed equal to the amount that the tax under this chapter exceeds the property tax that would apply if the real property were privately owned by the taxpayer.

(b) The credit under this section is available only if the tax parcel that is subject to the leasehold interest has a market value in excess of ten million dollars. If the leasehold interest attaches

to two or more parcels, the credit is available if at least one of the tax parcels has a market value in excess of ten million dollars. In either case, the market value must be determined as of January 1st of the year prior to the year for which the credit is claimed.

(c) For purposes of calculating the credit:

(i) If a tax parcel does not have current assessed value in accordance with RCW 84.40.020, a market value appraisal performed by a Washington state-certified general real estate appraiser, as defined in RCW 18.140.010, is sufficient to establish the market value. If the underlying real property that is the subject of the leasehold interest consists of a part of one or more tax parcels, this appraisal must include the market value of the part of the parcel or parcels to which the leasehold interest applies.

(ii) The property tax that would otherwise apply to the real property that is the subject of the leasehold interest is calculated using the existing consolidated levy rate for the property's tax code area.

(d) The definitions in this subsection apply throughout this subsection (3) unless the context clearly requires otherwise.

(i) "Real property" has the same meaning as in RCW 84.04.090 and also includes all improvements upon the land the fee of which is still vested in the public owner.

(ii) "Market value" means the true and fair value of the property as that term is used in RCW 84.40.030, based on the property's highest and best use and determined by any reasonable means approved by the department.

(iii) "State university" has the same meaning as "state universities" as provided in RCW 28B.10.016.

NEW SECTION. **Sec. 3.** (1) This act expires July 1, 2021.

(2) The credit provided under section 2 of this act may not be claimed for tax reporting periods beginning on or after July 1, 2021.

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