

ESB 5402 - H AMD TO FIN COMM AMD (H-5334.1/20) **2163**
By Representative Walen

ADOPTED 03/06/2020

1 On page 68, after line 31, insert the following:

2 "Sec. 59. RCW 82.32.050 and 2008 c 181 s 501 are each amended to
3 read as follows:

4 (1) If upon examination of any returns or from other information
5 obtained by the department it appears that a tax or penalty has been
6 paid less than that properly due, the department shall assess against
7 the taxpayer such additional amount found to be due and shall add
8 thereto interest on the tax only. The department shall notify the
9 taxpayer by mail, or electronically as provided in RCW 82.32.135, of
10 the additional amount and the additional amount shall become due and
11 shall be paid within thirty days from the date of the notice, or
12 within such further time as the department may provide.

13 (a) For tax liabilities arising before January 1, 1992, interest
14 shall be computed at the rate of nine percent per annum from the last
15 day of the year in which the deficiency is incurred until the earlier
16 of December 31, 1998, or the date of payment. After December 31,
17 1998, the rate of interest shall be variable and computed as provided
18 in subsection (2) of this section. The rate so computed shall be
19 adjusted on the first day of January of each year for use in
20 computing interest for that calendar year.

21 (b) For tax liabilities arising after December 31, 1991, the rate
22 of interest shall be variable and computed as provided in subsection
23 (2) of this section from the last day of the year in which the
24 deficiency is incurred until the date of payment. The rate so
25 computed shall be adjusted on the first day of January of each year
26 for use in computing interest for that calendar year.

27 (c) (~~Interest~~) (i) Except as otherwise provided in (c)(ii) of
28 this subsection (1), interest imposed after December 31, 1998, shall
29 be computed from the last day of the month following each calendar
30 year included in a notice, and the last day of the month following
31 the final month included in a notice if not the end of a calendar
32 year, until the due date of the notice.

1 (ii) For interest associated with annual tax reporting periods
2 having a due date as prescribed in RCW 82.32.045(3), interest must be
3 computed from the last day of April immediately following each such
4 annual reporting period included in the notice, until the due date of
5 the notice.

6 (iii) If payment in full is not made by the due date of the
7 notice, additional interest shall be computed under this subsection
8 (1)(c) until the date of payment. The rate of interest shall be
9 variable and computed as provided in subsection (2) of this section.
10 The rate so computed shall be adjusted on the first day of January of
11 each year for use in computing interest for that calendar year.

12 (2) For the purposes of this section, the rate of interest to be
13 charged to the taxpayer shall be an average of the federal short-term
14 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.
15 The rate set for each new year shall be computed by taking an
16 arithmetical average to the nearest percentage point of the federal
17 short-term rate, compounded annually. That average shall be
18 calculated using the rates from four months: January, April, and July
19 of the calendar year immediately preceding the new year, and October
20 of the previous preceding year.

21 (3) During a state of emergency declared under RCW 43.06.010(12),
22 the department, on its own motion or at the request of any taxpayer
23 affected by the emergency, may extend the due date of any assessment
24 or correction of an assessment for additional taxes, penalties, or
25 interest as the department deems proper.

26 (4) No assessment or correction of an assessment for additional
27 taxes, penalties, or interest due may be made by the department more
28 than four years after the close of the tax year, except (a) against a
29 taxpayer who has not registered as required by this chapter, (b) upon
30 a showing of fraud or of misrepresentation of a material fact by the
31 taxpayer, or (c) where a taxpayer has executed a written waiver of
32 such limitation. The execution of a written waiver shall also extend
33 the period for making a refund or credit as provided in RCW
34 82.32.060(2).

35 (5) For the purposes of this section, "return" means any document
36 a person is required by the state of Washington to file to satisfy or
37 establish a tax or fee obligation that is administered or collected
38 by the department of revenue and that has a statutorily defined due
39 date.

1 **Sec. 60.** RCW 82.32.060 and 2009 c 176 s 4 are each amended to
2 read as follows:

3 (1) If, upon receipt of an application by a taxpayer for a refund
4 or for an audit of the taxpayer's records, or upon an examination of
5 the returns or records of any taxpayer, it is determined by the
6 department that within the statutory period for assessment of taxes,
7 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,
8 penalty, or interest has been paid in excess of that properly due,
9 the excess amount paid within, or attributable to, such period must
10 be credited to the taxpayer's account or must be refunded to the
11 taxpayer, at the taxpayer's option. Except as provided in subsection
12 (2) of this section, no refund or credit may be made for taxes,
13 penalties, or interest paid more than four years prior to the
14 beginning of the calendar year in which the refund application is
15 made or examination of records is completed.

16 (2) (a) The execution of a written waiver under RCW 82.32.050 or
17 82.32.100 will extend the time for making a refund or credit of any
18 taxes paid during, or attributable to, the years covered by the
19 waiver if, prior to the expiration of the waiver period, an
20 application for refund of such taxes is made by the taxpayer or the
21 department discovers a refund or credit is due.

22 (b) A refund or credit must be allowed for an excess payment
23 resulting from the failure to claim a bad debt deduction, credit, or
24 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or
25 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec.
26 166, as amended or renumbered as of January 1, 2003, less than four
27 years prior to the beginning of the calendar year in which the refund
28 application is made or examination of records is completed.

29 (3) Any such refunds must be made by means of vouchers approved
30 by the department and by the issuance of state warrants drawn upon
31 and payable from such funds as the legislature may provide. However,
32 taxpayers who are required to pay taxes by electronic funds transfer
33 under RCW 82.32.080 must have any refunds paid by electronic funds
34 transfer if the department has the necessary account information to
35 facilitate a refund by electronic funds transfer.

36 (4) Any judgment for which a recovery is granted by any court of
37 competent jurisdiction, not appealed from, for tax, penalties, and
38 interest which were paid by the taxpayer, and costs, in a suit by any
39 taxpayer must be paid in the same manner, as provided in subsection

1 (3) of this section, upon the filing with the department of a
2 certified copy of the order or judgment of the court.

3 (a) Interest at the rate of three percent per annum must be
4 allowed by the department and by any court on the amount of any
5 refund, credit, or other recovery allowed to a taxpayer for taxes,
6 penalties, or interest paid by the taxpayer before January 1, 1992.
7 This rate of interest applies for all interest allowed through
8 December 31, 1998. Interest allowed after December 31, 1998, must be
9 computed at the rate as computed under RCW 82.32.050(2). The rate so
10 computed must be adjusted on the first day of January of each year
11 for use in computing interest for that calendar year.

12 (b) For refunds or credits of amounts paid or other recovery
13 allowed to a taxpayer after December 31, 1991, the rate of interest
14 must be the rate as computed for assessments under RCW 82.32.050(2)
15 less one percent. This rate of interest applies for all interest
16 allowed through December 31, 1998. Interest allowed after December
17 31, 1998, must be computed at the rate as computed under RCW
18 82.32.050(2). The rate so computed must be adjusted on the first day
19 of January of each year for use in computing interest for that
20 calendar year.

21 (5) Interest allowed on a credit notice or refund issued after
22 December 31, 2003, must be computed as follows:

23 (a) If all overpayments for each calendar year and all reporting
24 periods ending with the final month included in a notice or refund
25 were made on or before the due date of the final return for each
26 calendar year or the final reporting period included in the notice or
27 refund:

28 (i) Interest must be computed from January 31st following each
29 calendar year included in a notice or refund; (~~or~~)

30 (ii) Interest must be computed from the last day of the month
31 following the final month included in a notice or refund; or

32 (iii) For interest associated with annual tax reporting periods
33 having a due date as prescribed in RCW 82.32.045(3), interest must be
34 computed from the last day of April following each such annual
35 reporting period included in a notice or refund.

36 (b) If the taxpayer has not made all overpayments for each
37 calendar year and all reporting periods ending with the final month
38 included in a notice or refund on or before the dates specified by
39 RCW 82.32.045 for the final return for each calendar year or the
40 final month included in the notice or refund, interest must be

1 computed from the last day of the month following the date on which
2 payment in full of the liabilities was made for each calendar year
3 included in a notice or refund, and the last day of the month
4 following the date on which payment in full of the liabilities was
5 made if the final month included in a notice or refund is not the end
6 of a calendar year.

7 (c) Interest included in a credit notice must accrue up to the
8 date the taxpayer could reasonably be expected to use the credit
9 notice, as defined by the department's rules. If a credit notice is
10 converted to a refund, interest must be recomputed to the date the
11 refund is issued, but not to exceed the amount of interest that would
12 have been allowed with the credit notice.

13 NEW SECTION. **Sec. 61.** Sections 59 and 60 of this act apply both
14 prospectively and retroactively to January 1, 2020.

15 NEW SECTION. **Sec. 62.** Sections 59 through 61 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and take effect immediately."

19 Correct the title.

EFFECT: Updates the interest calculation provisions to reflect
the changed filing due date for annual filers of business &
occupation tax returns.

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