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**HOUSE BILL 2156**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Jinkins, Tarleton, Sullivan, Ormsby, Bergquist, Robinson, Senn, Appleton, Dolan, Frame, Macri, Pollet, Thai, and Tharinger

Read first time 03/26/19. Referred to Committee on Finance.

1 AN ACT Relating to investing in quality prekindergarten, K-12,  
2 and postsecondary opportunities throughout Washington with excise  
3 taxes on sales and extraordinary profits of high valued assets;  
4 amending RCW 83.100.230 and 82.45.060; adding new sections to chapter  
5 82.45 RCW; adding a new section to chapter 82.04 RCW; adding a new  
6 section to chapter 82.32 RCW; adding a new chapter to Title 82 RCW;  
7 creating new sections; prescribing penalties; and declaring an  
8 emergency.

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

10 **Part I**

11 **Intent**

12 NEW SECTION. **Sec. 101.** (1) Washington's tax system is the most  
13 upside down and regressive in the nation, allowing those who earn the  
14 most to pay the least percentage of their income in taxes. As a  
15 percentage of household income, middle-income families in Washington  
16 pay two to four times the amount of taxes as compared to top earners  
17 in the state. Low-income Washingtonians pay six times more in taxes  
18 than our wealthiest residents. Building a tax system that is fair,  
19 balanced, and works for everyone is imperative. The legislature finds  
20 a tax system that strengthens the middle-class economy, helps low-

1 income and senior residents, and asks the wealthiest among us, who  
2 are benefiting the most from our strong economy and system of laws  
3 and government, to contribute their fair share is essential to help  
4 all Washingtonians grow and thrive.

5 (2) The legislature finds that the state faces increasingly  
6 complex funding obligations, including the constitutional duty to  
7 amply fund basic education for K-12 students, the need for continued  
8 support of both the earliest learners and higher education, and the  
9 challenges working families face in affording quality child care and  
10 prekindergarten. It is the state's duty and is necessary for the  
11 support of state government and its existing institutions to generate  
12 revenue for these vital public services.

13 (3) The excise tax on capital gains is a tax on the one-time,  
14 voluntary sale or transfer of a capital asset, not a tax on ownership  
15 of the asset itself. This excise tax is paid only by those Washington  
16 residents who engage in such voluntary sales or transfers and is  
17 measured by the realization of gain on the transaction. In order to  
18 protect against further regressive impacts of the tax system,  
19 encourage the everyday investments Washingtonians of all income  
20 levels strive for, and support our economy, this excise tax will not  
21 apply to capital gains realized by certain sales and transfers. All  
22 revenue collected from this excise tax will be dedicated to the  
23 education of Washingtonians through deposit in the state's education  
24 legacy trust account.

25 (4) The legislature finds that the flat real estate excise tax  
26 rate structure disproportionately impacts the long-term financial  
27 well-being of working families and communities of color. The  
28 legislature finds that home equity constitutes the largest share of  
29 household net worth for the average American. The legislature finds  
30 that many senior citizens rely on the profits from the sale of their  
31 owned home to support themselves in retirement. The legislature  
32 concludes that changing the flat real estate excise tax rate  
33 structure to a marginal and progressive structure will provide  
34 revenues for state programs while, at the same time, benefiting  
35 working families.

36 (5) The revenue collected as the result of taxes imposed on the  
37 sale or transfer of capital assets will be deposited in the education  
38 legacy trust account and dedicated to the education of Washingtonians  
39 from our earliest learners to our college and university students.  
40 Changing the real estate excise tax to a graduated tax will raise

1 revenue to continue support of safe, affordable, and healthy  
2 communities.

3 **Part II**  
4 **Distribution of Revenue**

5 NEW SECTION. **Sec. 201.** All revenue from taxes collected under  
6 part IV of this act, including penalties and interest on such taxes,  
7 must be deposited into the education legacy trust account created in  
8 RCW 83.100.230.

9 NEW SECTION. **Sec. 202.** A new section is added to chapter 82.45  
10 RCW to read as follows:

11 (1)(a) By December 1st of each year, beginning January 1, 2020,  
12 the department must calculate:

13 (i) The proceeds of tax imposed pursuant to RCW 82.45.060  
14 generated during the most recently completed fiscal year; and

15 (ii) The estimated amount of proceeds the tax imposed pursuant to  
16 RCW 82.45.060 would have generated during the most recently completed  
17 fiscal year, if the rate of this tax had been one and twenty-eight  
18 one-hundredths percent for all taxable transactions during the most  
19 recently completed fiscal year.

20 (b) By December 31st of each year, beginning January 1, 2020, the  
21 department must notify the state treasurer of the calculations under  
22 this subsection (1) and the proceeds of the tax imposed under RCW  
23 82.45.060 must be distributed as provided in subsections (2) and (3)  
24 of this section.

25 (2) For the amount of proceeds equal to the amount calculated in  
26 subsection (1)(a)(ii) of this section, the funds must be distributed  
27 as follows:

28 (a) Beginning January 1, 2020, through June 30, 2023, an amount  
29 equal to:

30 (i) Two percent of the proceeds calculated in subsection  
31 (1)(a)(ii) of this section must be deposited in the public works  
32 assistance account created in RCW 43.155.050;

33 (ii) Four and one-tenth percent of the proceeds calculated in  
34 subsection (1)(a)(ii) of this section must be deposited in the  
35 education legacy trust account created in RCW 83.100.230; and

36 (iii) The remaining proceeds must be deposited in the general  
37 fund.

1 (b) (i) Beginning July 1, 2023, an amount equal to six and one-  
2 tenth percent of the proceeds calculated in subsection (1) (a) (ii) of  
3 this section must be deposited in the public works assistance account  
4 created in RCW 43.155.050; and

5 (ii) The remaining proceeds must be deposited in the general  
6 fund.

7 (3) The remaining proceeds that were not distributed in  
8 subsection (2) of this section must be deposited as follows:

9 (a) Fifty-five and one-half percent must be deposited into the  
10 education legacy trust account created in RCW 83.100.230; and

11 (b) Forty-four and one-half percent must be deposited into the  
12 general fund.

13 **Sec. 203.** RCW 83.100.230 and 2017 3rd sp.s. c 1 s 991 are each  
14 amended to read as follows:

15 The education legacy trust account is created in the state  
16 treasury. Money in the account may be spent only after appropriation.  
17 Expenditures from the account may be used only for support of the  
18 common schools, for support of early learning programs, and for  
19 expanding access to higher education through funding for new  
20 enrollments and financial aid, and other educational improvement  
21 efforts. ~~((During the 2015-2017 and 2017-2019 fiscal biennia  
22 appropriations from the account may be made for support of early  
23 learning programs. It is the intent of the legislature that this  
24 policy will be continued in subsequent fiscal biennia.))~~

25 **Part III**

26 **Real Estate Excise Tax**

27  
28 **Sec. 301.** RCW 82.45.060 and 2017 3rd sp.s. c 10 s 13 are each  
29 amended to read as follows:

30 (1) Through December 31, 2019, there is imposed an excise tax  
31 upon each sale of real property at the rate of one and twenty-eight  
32 one-hundredths percent of the selling price. Beginning July 1, 2013,  
33 and ending ~~((June 30, 2023))~~ December 31, 2019, an amount equal to  
34 two percent of the proceeds of this tax must be deposited in the  
35 public works assistance account created in RCW 43.155.050, and an  
36 amount equal to four and one-tenth percent must be deposited in the  
37 education legacy trust account created in RCW 83.100.230.

1 (~~Thereafter, an amount equal to six and one-tenth percent of the~~  
2 ~~proceeds of this tax to the state treasurer must be deposited in the~~  
3 ~~public works assistance account created in RCW 43.155.050. Except as~~  
4 ~~otherwise provided in this section, an amount equal to one and six-~~  
5 ~~tenths percent of the proceeds of this tax to the state treasurer~~  
6 ~~must be deposited in the city-county assistance account created in~~  
7 ~~RCW 43.08.290.))~~

8 (2) Beginning January 1, 2020, the rate of the tax imposed under  
9 this section is as follows:

10 (a) For the sale of real property that is classified as  
11 undeveloped land, timberland, agricultural land, or water or mineral  
12 rights, one and twenty-eight one-hundredths percent of the selling  
13 price.

14 (b) For the sale of real property with any classification other  
15 than those provided in (a) of this subsection:

16 (i) If the selling price is equal to or less than five hundred  
17 thousand dollars, nine-tenths percent of the selling price;

18 (ii) If the selling price is greater than five hundred thousand  
19 dollars:

20 (A) One and twenty-eight one-hundredths percent of any portion of  
21 the selling price that is equal to or less than one million five  
22 hundred thousand dollars;

23 (B) Two percent of any portion of the selling price that is  
24 greater than one million five hundred thousand dollars and equal to  
25 or less than seven million dollars; and

26 (C) Three percent of any portion of the selling price that is  
27 greater than seven million dollars.

28 (3) Beginning July 1, 2022, and every fourth year thereafter:

29 (a) The department must adjust the selling price threshold in  
30 subsection (2)(b)(i) of this section to reflect the lesser of the  
31 growth of the consumer price index for shelter or five percent. If  
32 the growth is equal to or less than zero percent, the current selling  
33 price threshold continues to apply.

34 (b) The department must adjust the selling price thresholds in  
35 subsection (2)(b)(ii)(A) through (C) of this section by the dollar  
36 amount the selling price threshold in subsection (2)(b)(i) of this  
37 section if increased under (a) of this subsection (3).

38 (c) The department must publish updated selling price thresholds  
39 by September 1, 2022, and September 1st of every fourth year  
40 thereafter. Updated selling price thresholds will apply beginning

1 January 1st of every fourth year, beginning January 1, 2023. Adjusted  
2 selling price thresholds must be rounded to the nearest one thousand  
3 dollars.

4 (d) The most recent selling price threshold becomes the base for  
5 subsequent adjustments.

6 (e) The department must report the updated selling price  
7 thresholds to the fiscal committees of the legislature within six  
8 months of publication.

9 (4) The definitions in this subsection apply throughout this  
10 section unless the context clearly requires otherwise.

11 (a) "Agricultural land" means farm and agricultural land and farm  
12 and agricultural conservation land, as those terms are defined in RCW  
13 84.34.020, including any structures on such land.

14 (b) "Consumer price index for shelter" means the most current  
15 seasonally adjusted index for the shelter expenditure category of the  
16 consumer price index for all urban consumers (CPI-U) as published by  
17 July 31st by the bureau of labor statistics of the United States  
18 department of labor.

19 (c) "Development" means any improvement, alteration,  
20 modification, maintenance, or use of land that requires a permit or  
21 approval from a state or local government permitting authority,  
22 including, but not limited to, a building permit, grading permit,  
23 shoreline substantial development permit, conditional use permit,  
24 special use permit, zoning variance or reclassification, subdivision,  
25 short subdivision, urban planned development, binding site plan, site  
26 development permit, right-of-way use permit, or hydraulic project  
27 approval.

28 (d) "Growth of the consumer price index for shelter" means the  
29 percentage increase in the consumer price index for shelter as  
30 measured from data published by the bureau of labor statistics of the  
31 United States department of labor by July 31st for the most recent  
32 three-year period for the selling price threshold adjustment in 2022,  
33 and the most recent four-year period for subsequent selling price  
34 threshold adjustments.

35 (e) "Impervious surface" means a hard surface area that either  
36 prevents or retards the entry of water into the soil mantle as under  
37 natural conditions before development or that causes water to run off  
38 the surface in greater quantities or at an increased rate of flow  
39 from the flow present under natural conditions before development.  
40 "Impervious surface" includes, but is not limited to, roofs,

1 walkways, patios, driveways, parking lots, storage areas, areas that  
2 are paved, graveled or made of packed or oiled earthen materials or  
3 other surfaces that similarly impede the natural infiltration of  
4 surface water or stormwater. "Impervious surfaces" include areas  
5 covered with any type of permeable pavement, such as porous asphalt,  
6 pervious concrete, permeable interlocking concrete pavers, and other  
7 permeable pavers.

8 (f) "Open space land" means land classified as open space land  
9 under chapter 84.34 RCW, including any structures on such land.

10 (g) "Timberland" means land classified under chapter 84.34 RCW or  
11 designated under chapter 84.33 RCW, including any structures on such  
12 land, and standing timber sold apart from the land upon which it  
13 sits.

14 (h) "Undeveloped land" means any land unaltered from the natural  
15 state by the construction, creation, or addition of structures or  
16 impervious surfaces.

17 NEW SECTION. Sec. 302. A new section is added to chapter 82.45  
18 RCW to read as follows:

19 The department may treat multiple sales as a single sale as  
20 necessary to prevent the parties from reducing the tax liability  
21 under this chapter when it appears that the parties have engaged in a  
22 concerted plan intended from the outset to achieve a reduced  
23 effective tax rate than had the parties collapsed the separate sales  
24 into a single sale at the outset. The department is encouraged to  
25 provide guidance to the public concerning the department's  
26 implementation of this section, whether by rule or otherwise.

27 **Part IV**  
28 **Capital Gains Tax**

29 NEW SECTION. Sec. 401. The definitions in this section apply  
30 throughout this chapter unless the context clearly requires  
31 otherwise.

32 (1) "Accessory dwelling unit" means a separate habitable living  
33 area that is subordinate to the principal single-family dwelling  
34 unit, which is either internal to, attached to, or located on the  
35 same property tax parcel as, the principal single-family dwelling  
36 unit.

1 (2) "Adjusted capital gain" means federal net long-term capital  
2 gain:

3 (a) Plus any amount of loss from a sale or exchange that is  
4 exempt from the tax imposed in this chapter, to the extent such loss  
5 was included in calculating federal net long-term capital gain; and

6 (b) Less any amount of gain from a sale or exchange that is  
7 exempt from the tax imposed in this chapter, to the extent such gain  
8 was included in calculating federal net long-term capital gain.

9 (3) "Capital asset" has the same meaning as provided by Title 26  
10 U.S.C. Sec. 1221 of the internal revenue code and also includes any  
11 other property if the sale or exchange of the property results in a  
12 gain that is treated as a long-term capital gain under Title 26  
13 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

14 (4) "Federal net long-term capital gain" means the net long-term  
15 capital gain reportable for federal income tax purposes determined as  
16 if Title 26 U.S.C. Secs. 1400Z-1 and 1400Z-2 of the internal revenue  
17 code did not exist.

18 (5) "Individual" means a natural person.

19 (6) "Internal revenue code" means the United States internal  
20 revenue code of 1986, as amended, as of the effective date of this  
21 section, or such subsequent date as the department may provide by  
22 rule consistent with the purpose of this chapter.

23 (7) "Long-term capital asset" means a capital asset that is held  
24 for more than one year.

25 (8)(a) "Resident" means an individual:

26 (i) Who is domiciled in this state during the taxable year,  
27 unless the individual (A) maintained no permanent place of abode in  
28 this state during the entire taxable year, (B) maintained a permanent  
29 place of abode outside of this state during the entire taxable year,  
30 and (C) spent in the aggregate not more than thirty days of the  
31 taxable year in this state; or

32 (ii) Who is not domiciled in this state during the taxable year  
33 but maintained a place of abode and was physically present in this  
34 state for more than one hundred eighty-three days during the taxable  
35 year.

36 (b) For purposes of this subsection, "day" includes any portion  
37 of a day, except that a continuous period of twenty-four hours or  
38 less may not constitute more than one day.

39 (c) An individual who is a resident under (a) of this subsection  
40 is a resident for that portion of a taxable year in which the



1 individual was domiciled in this state or maintained a place of abode  
2 in this state.

3 (9) "Taxable year" means the taxpayer's taxable year as  
4 determined under the internal revenue code.

5 (10) "Taxpayer" means an individual subject to tax under this  
6 chapter.

7 (11) "Washington capital gains" means an individual's adjusted  
8 capital gains allocated to this state as provided in section 407 of  
9 this act, less:

10 (a) One hundred thousand dollars; or

11 (b) Two hundred thousand dollars for individuals filing joint  
12 returns under this chapter.

13 NEW SECTION. **Sec. 402.** (1) Beginning January 1, 2020, a tax is  
14 imposed on all individuals for the privilege of selling or exchanging  
15 long-term capital assets, or receiving Washington capital gains. The  
16 tax equals nine and nine-tenths percent multiplied by the  
17 individual's Washington capital gains.

18 (2) If an individual's Washington capital gains are less than  
19 zero for a taxable year, no tax is due under this section. No such  
20 losses may be carried back or carried forward to another taxable  
21 year.

22 (3) (a) The tax imposed in this section applies to (i) the sale or  
23 exchange of long-term capital assets owned by the taxpayer, whether  
24 the taxpayer was the legal or a beneficial owner of such assets at  
25 the time of the sale or exchange, or (ii) Washington capital gains  
26 otherwise realized by the taxpayer.

27 (b) For purposes of this chapter, an individual is a beneficial  
28 owner of long-term capital assets held by an entity that is a pass-  
29 through or disregarded entity for federal tax purposes, such as a  
30 partnership, limited liability company, S corporation, or trust, to  
31 the extent of the individual's ownership interest in the entity as  
32 reported for federal income tax purposes.

33 NEW SECTION. **Sec. 403.** This chapter does not apply to the sale  
34 or exchange of:

35 (1) Any residential dwelling along with the land upon which the  
36 dwelling is located. For the purposes of this subsection (1),  
37 "residential dwelling" means property consisting solely of (a) a  
38 single-family residence, a residential condominium unit, or a

1 residential cooperative unit, including any accessory dwelling unit  
2 associated with such residence or residential unit, (b) a multifamily  
3 residential building consisting of one or more common walls and fewer  
4 than four units, or (c) a floating home as defined in RCW 82.45.032;

5 (2) Assets held under a retirement savings account under Title 26  
6 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered  
7 annuity or custodial account described in Title 26 U.S.C. Sec. 403(b)  
8 of the internal revenue code, a deferred compensation plan under  
9 Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an  
10 individual retirement account or individual retirement annuity  
11 described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a  
12 Roth individual retirement account described in Title 26 U.S.C. Sec.  
13 408A of the internal revenue code, an employee defined contribution  
14 program, an employee defined benefit plan, or a similar retirement  
15 savings vehicle;

16 (3) Assets pursuant to or under imminent threat of condemnation  
17 proceedings by the United States, the state or any of its political  
18 subdivisions, or a municipal corporation;

19 (4) Cattle, horses, or breeding livestock held for more than  
20 twelve months if for the taxable year of the sale or exchange, more  
21 than fifty percent of the taxpayer's gross income for the taxable  
22 year, including from the sale or exchange of capital assets, is from  
23 farming or ranching;

24 (5) Agricultural land by an individual who has regular,  
25 continuous, and substantial involvement in the operation of the  
26 agriculture that meets the criteria for material participation in an  
27 activity under Title 26 U.S.C. Sec. 469(h) of the internal revenue  
28 code for the ten years prior to the date of the sale or exchange of  
29 the agricultural land;

30 (6) Property used in a trade or business if the property is  
31 defined under Title 26 U.S.C. Sec. 1231(b)(1) of the internal revenue  
32 code; and

33 (7) Timber, timberland, or the receipt of Washington capital  
34 gains as dividends and distributions from real estate investment  
35 trusts derived from gains from the sale or exchange of timber and  
36 timberland. "Timber" means forest trees, standing or down, on  
37 privately or publicly owned land, and includes Christmas trees and  
38 short-rotation hardwoods. The sale or exchange of timber includes the  
39 cutting or disposal of timber qualifying for capital gains treatment

1 under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue  
2 code.

3 NEW SECTION. **Sec. 404.** The tax imposed under this chapter is in  
4 addition to any other taxes imposed by the state or any of its  
5 political subdivisions, or a municipal corporation, with respect to  
6 the same sale or exchange, including the taxes imposed in or under  
7 the authority of chapter 82.04, 82.08, 82.12, 82.14, 82.45, or 82.46  
8 RCW.

9 NEW SECTION. **Sec. 405.** In computing tax, there may be deducted  
10 from the measure of tax amounts that the state is prohibited from  
11 taxing under the Constitution of this state or the Constitution or  
12 laws of the United States.

13 NEW SECTION. **Sec. 406.** (1) In computing tax under this chapter  
14 for a taxable year, a taxpayer may deduct from the measure of tax the  
15 amount of adjusted capital gain derived in the taxable year from the  
16 sale of substantially all of the fair market value of the assets of,  
17 or the transfer of substantially all of the taxpayer's interest in, a  
18 qualified family-owned small business.

19 (2) For purposes of this section, the following definitions  
20 apply:

21 (a) "Assets" means real property and personal property, including  
22 tangible personal property and intangible property.

23 (b) "Family" means the same as "member of the family" in RCW  
24 83.100.046.

25 (c)(i) "Materially participated" means an individual was involved  
26 in the operation of a business on a basis that is regular,  
27 continuous, and substantial.

28 (ii) The term "materially participated" must be interpreted  
29 consistently with the applicable treasury regulations for section 469  
30 of the internal revenue code, to the extent that such interpretation  
31 does not conflict with any provision of this section.

32 (d) "Qualified family-owned small business" means a business:

33 (i) In which the taxpayer held a qualifying interest for at least  
34 eight years immediately preceding the sale or transfer described in  
35 subsection (1) of this section;

36 (ii) In which the taxpayer or his or her family member materially  
37 participated in operating the business for at least five of the eight

1 years immediately preceding the sale or transfer described in  
2 subsection (1) of this section, unless such sale or transfer was to a  
3 qualified heir;

4 (iii)(A) That had no more than fifty full-time employees at any  
5 time during the twelve-month period immediately preceding the sale or  
6 transfer described in subsection (1) of this section.

7 (B) For purposes of this subsection (2)(d)(iii), "full-time  
8 employee" means an employee who is, or any combination of employees  
9 who are, paid by the business for at least one thousand eight hundred  
10 twenty hours of employment, including paid leave, for the twelve-  
11 month period described in (d)(iii)(A) of this subsection (2); and

12 (iv) That had worldwide gross revenue of seven million dollars or  
13 less in the twelve-month period immediately preceding the sale or  
14 transfer described in subsection (1) of this section.

15 (e) "Qualified heir" means a member of the taxpayer's family.

16 (f) "Qualifying interest" means:

17 (i) An interest as a proprietor in a business carried on as a  
18 sole proprietorship; or

19 (ii) An interest in a business if at least:

20 (A) Fifty percent of the business is owned, directly or  
21 indirectly, by the taxpayer and members of the taxpayer's family;

22 (B) Thirty percent of the business is owned, directly or  
23 indirectly, by the taxpayer and members of the taxpayer's family, and  
24 at least:

25 (I) Seventy percent of the business is owned, directly or  
26 indirectly, by members of two families; or

27 (II) Ninety percent of the business is owned, directly or  
28 indirectly, by members of three families.

29 (g) "Substantially all" means at least ninety percent.

30 NEW SECTION. **Sec. 407.** (1) For purposes of the tax imposed  
31 under this chapter, adjusted capital gains are allocated as follows:

32 (a) Adjusted capital gains from the sale or exchange of real  
33 property are allocated to this state if the real property is located  
34 in this state or a majority of the fair market value of the real  
35 property is located in this state.

36 (b) Adjusted capital gains from the sale or exchange of tangible  
37 personal property are allocated to this state if the property was  
38 located in this state at the time of the sale or exchange. Adjusted  
39 capital gains from the sale or exchange of tangible personal property

1 are also allocated to this state even though the property was not  
2 located in this state at the time of the sale or exchange if:

3 (i) The property was located in the state at any time during the  
4 taxable year in which the sale or exchange occurred or the  
5 immediately preceding taxable year;

6 (ii) The taxpayer was a resident at the time the sale or exchange  
7 occurred; and

8 (iii) The taxpayer is not subject to the payment of an income or  
9 excise tax legally imposed on the adjusted capital gain by another  
10 taxing jurisdiction.

11 (c) Adjusted capital gains derived from intangible personal  
12 property are allocated to this state if the taxpayer was domiciled in  
13 this state at the time the sale or exchange occurred.

14 (2)(a) A credit is allowed against the tax imposed in section 402  
15 of this act equal to the amount of any legally imposed income or  
16 excise tax paid by the taxpayer to another taxing jurisdiction on  
17 capital gains derived from capital assets within the other taxing  
18 jurisdiction to the extent such capital gains are included in the  
19 taxpayer's Washington capital gains. The amount of credit under this  
20 subsection may not exceed the total amount of tax due under this  
21 chapter, and there is no carryback or carryforward of any unused  
22 credits.

23 (b) As used in this section, "taxing jurisdiction" means a state  
24 of the United States other than the state of Washington, the District  
25 of Columbia, the Commonwealth of Puerto Rico, any territory or  
26 possession of the United States, or any foreign country or political  
27 subdivision of a foreign country.

28 NEW SECTION. **Sec. 408.** (1)(a) Except as otherwise provided in  
29 this section or RCW 82.32.080, taxpayers owing tax under this chapter  
30 must file, on forms prescribed by the department, a return with the  
31 department on or before the date the taxpayer's federal income tax  
32 return for the taxable year is required to be filed.

33 (b) A taxpayer must file an annual capital gains return, along  
34 with any other documents required by the department, if no tax is  
35 owed, but the taxpayer has a Washington capital gain of at least  
36 seventy-five thousand dollars, or one hundred fifty-thousand dollars  
37 if filing a joint return, for the taxable year.

38 (2) In addition to the Washington return required to be filed  
39 under subsection (1) of this section, taxpayers owing tax under this

1 chapter must file with the department on or before the date the  
2 federal return is required to be filed a copy of the federal income  
3 tax return along with all schedules and supporting documentation.

4 (3) Each taxpayer required to file a return under this section  
5 must, without assessment, notice, or demand, pay any tax due thereon  
6 to the department on or before the date fixed for the filing of the  
7 return, regardless of any filing extension. If any tax due under this  
8 chapter is not paid by the due date, interest and penalties as  
9 provided in chapter 82.32 RCW apply to the deficiency.

10 (4) The department may by rule require that certain individuals  
11 and other persons file, at times and on forms prescribed by the  
12 department, informational returns for any period.

13 (5) If a taxpayer has obtained an extension of time for filing  
14 the federal income tax return for the taxable year, the taxpayer is  
15 entitled to the same extension of time for filing the return required  
16 under this section if the taxpayer provides the department, before  
17 the due date provided in subsection (1) of this section, the  
18 extension confirmation number or other evidence satisfactory to the  
19 department confirming the federal extension. An extension under this  
20 subsection for the filing of a return under this chapter is not an  
21 extension of time to pay the tax due under this chapter.

22 (6)(a) If any return due under subsection (1) of this section,  
23 along with a copy of the federal income tax return, is not filed with  
24 the department by the due date or any extension granted by the  
25 department, the department must assess a penalty in the amount of  
26 five percent of the tax due for the taxable year covered by the  
27 return for each month or portion of a month that the return remains  
28 unfiled. The total penalty assessed under this subsection may not  
29 exceed twenty-five percent of the tax due for the taxable year  
30 covered by the delinquent return. The penalty under this subsection  
31 is in addition to any penalties assessed for the late payment of any  
32 tax due on the return.

33 (b) The department must waive or cancel the penalty imposed under  
34 this subsection if:

35 (i) The department is persuaded that the taxpayer's failure to  
36 file the return by the due date was due to circumstances beyond the  
37 taxpayer's control; or

38 (ii) The taxpayer has not been delinquent in filing any return  
39 due under this section during the preceding five calendar years.

1        NEW SECTION.        **Sec. 409.**        (1) If the federal income tax  
2 liabilities of both spouses are determined on a joint federal return  
3 for the taxable year, they must file a joint return under this  
4 chapter.

5        (2) Except as otherwise provided in this subsection, if the  
6 federal income tax liability of either spouse is determined on a  
7 separate federal return for the taxable year, they must file separate  
8 returns under this chapter. State registered domestic partners may  
9 file a joint return under this chapter even if they filed separate  
10 federal returns for the taxable year.

11        (3) In any case in which a joint return is filed under this  
12 section, the liability of each spouse or state registered domestic  
13 partner is joint and several, unless:

14        (a) The spouse is relieved of liability for federal tax purposes  
15 as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue  
16 code; or

17        (b) The department determines that the domestic partner qualifies  
18 for relief as provided by rule of the department. Such rule, to the  
19 extent possible without being inconsistent with this chapter, must  
20 follow Title 26 U.S.C. Sec. 6015.

21        NEW SECTION.        **Sec. 410.**        To the extent not inconsistent with the  
22 provisions of this chapter, the following statutes apply to the  
23 administration of taxes imposed under this chapter: RCW 82.32.050,  
24 82.32.055, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090,  
25 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130,  
26 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190,  
27 82.32.200, 82.32.210, 82.32.212, 82.32.220, 82.32.230, 82.32.235,  
28 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.300, 82.32.310,  
29 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410,  
30 82.32.805, 82.32.808, and section 413 of this act.

31        NEW SECTION.        **Sec. 411.**        (1) Any taxpayer who knowingly attempts  
32 to evade payment of the tax imposed under this chapter is guilty of a  
33 class C felony as provided in chapter 9A.20 RCW.

34        (2) Any taxpayer who knowingly fails to pay tax, make returns,  
35 keep records, or supply information, as required under this title, is  
36 guilty of a gross misdemeanor as provided in chapter 9A.20 RCW.

1        NEW SECTION.    **Sec. 412.**    Notwithstanding any common law rule of  
2 strict construction of statutes imposing taxes, this chapter, being  
3 necessary for the welfare of the state and its inhabitants, must be  
4 liberally construed in support of application of the tax.

5        NEW SECTION.    **Sec. 413.**    A new section is added to chapter 82.04  
6 RCW to read as follows:

7        A deduction is allowed against a person's gross income of the  
8 business to the extent necessary to avoid taxing the same amounts  
9 under this chapter and section 402 of this act.

10       NEW SECTION.    **Sec. 414.**    A new section is added to chapter 82.32  
11 RCW to read as follows:

12        (1) The department may enter into reciprocal tax collection  
13 agreements with the taxing officials of any other state imposing a  
14 specified tax. Agreements authorized under this section must require  
15 each state to offset delinquent specified taxes owed by a taxpayer to  
16 one party to the agreement, including any associated penalties,  
17 interest, or other additions, against refunds of overpaid specified  
18 taxes owed to the taxpayer by the other party to the agreement. Such  
19 agreements may also include provisions governing the sharing of  
20 information relevant to the administration of specified taxes.  
21 However, the department may not share return or tax information with  
22 other states except as allowed under RCW 82.32.330. Likewise, the  
23 department may not share federal tax information with other states  
24 without the express written consent of the internal revenue service.

25        (2) The definitions in this subsection apply throughout this  
26 section unless the context clearly requires otherwise.

27        (a) "Specified taxes" means generally applicable state and local  
28 sales taxes and use taxes, broad-based state gross receipts taxes,  
29 state income taxes, and stand-alone state taxes on capital gains or  
30 interest and dividends. "Specified taxes" include, but are not  
31 limited to, the taxes imposed in or under the authority of chapters  
32 82.04, 82.08, 82.12, 82.14, 82.16, and 82.--- RCW (the new chapter  
33 created in section 502 of this act), and similar taxes imposed by  
34 another state. For purposes of this subsection (2)(a), "gross  
35 receipts tax," "income tax," "sales tax," and "use tax" have the same  
36 meanings as provided in RCW 82.56.010.

37        (b) "State" has the same meaning as provided in RCW 82.56.010.



1 **Part V**

2 **Miscellaneous Provisions**

3 NEW SECTION. **Sec. 501.** The provisions of RCW 82.32.805 and  
4 82.32.808 do not apply to this act.

5 NEW SECTION. **Sec. 502.** Sections 201 and 401 through 412 of this  
6 act constitute a new chapter in Title 82 RCW.

7 NEW SECTION. **Sec. 503.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 504.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of  
13 the state government and its existing public institutions, and takes  
14 effect immediately.

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