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**SENATE BILL 5994**

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**State of Washington****66th Legislature****2019 Regular Session****By** Senator Palumbo

1 AN ACT Relating to business and occupation tax simplification and  
2 relief; amending RCW 82.04.250, 82.04.270, 82.04.240, 82.04.240,  
3 82.04.290, 82.04.230, and 82.32.790; adding a new section to chapter  
4 82.04 RCW; repealing RCW 82.04.2404, 82.04.255, 82.04.257, 82.04.260,  
5 82.04.263, 82.04.272, 82.04.280, 82.04.285, 82.04.286, 82.04.2905,  
6 82.04.2906, 82.04.2907, 82.04.2908, 82.04.2909, 82.04.294, and  
7 82.04.298; creating a new section; providing an effective date; and  
8 providing a contingent expiration date.

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

10 NEW SECTION. **Sec. 1.** The legislature recognizes that the  
11 current state of the business and occupation tax is inherently unfair  
12 to small businesses. Large businesses with the means to hire high-  
13 priced lobbyists are able to secure preferential rates, credits, and  
14 exemptions that are not available to small businesses. With almost  
15 two hundred preferential rates, credits, and exemptions for the  
16 business and occupation tax, the legislature is corrupting the free  
17 market by picking winners and losers. It is the intent of the  
18 legislature to create a fairer system that includes a single low flat  
19 rate, broadly applied to all businesses.

1       **Sec. 2.** RCW 82.04.250 and 2014 c 97 s 402 are each amended to  
2 read as follows:

3       (~~(1)~~) Upon every person engaging within this state in the  
4 business of making sales at retail, except persons taxable as  
5 retailers under other provisions of this chapter, as to such persons,  
6 the amount of tax with respect to such business is equal to the gross  
7 proceeds of sales of the business, multiplied by the rate of  
8 (~~(0.471)~~) 0.73 percent.

9       (~~(2)~~) ~~Upon every person engaging within this state in the~~  
10 ~~business of making sales at retail that are exempt from the tax~~  
11 ~~imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,~~  
12 ~~82.08.0262, or 82.08.0263, except persons taxable under RCW~~  
13 ~~82.04.260(11) or subsection (3) of this section, as to such persons,~~  
14 ~~the amount of tax with respect to such business is equal to the gross~~  
15 ~~proceeds of sales of the business, multiplied by the rate of 0.484~~  
16 ~~percent.~~

17       ~~(3)(a) Until July 1, 2040, upon every person classified by the~~  
18 ~~federal aviation administration as a federal aviation regulation part~~  
19 ~~145 certificated repair station and that is engaging within this~~  
20 ~~state in the business of making sales at retail that are exempt from~~  
21 ~~the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,~~  
22 ~~82.08.0262, or 82.08.0263, as to such persons, the amount of tax with~~  
23 ~~respect to such business is equal to the gross proceeds of sales of~~  
24 ~~the business, multiplied by the rate of .2904 percent.~~

25       ~~(b) A person reporting under the tax rate provided in this~~  
26 ~~subsection (3) must file a complete annual report with the department~~  
27 ~~under RCW 82.32.534.)~~

28       **Sec. 3.** RCW 82.04.270 and 2004 c 24 s 5 are each amended to read  
29 as follows:

30       Upon every person engaging within this state in the business of  
31 making sales at wholesale, except persons taxable as wholesalers  
32 under other provisions of this chapter; as to such persons the amount  
33 of tax with respect to such business shall be equal to the gross  
34 proceeds of sales of such business multiplied by the rate of  
35 (~~(0.484)~~) 0.73 percent.

36       **Sec. 4.** RCW 82.04.240 and 2004 c 24 s 4 are each amended to read  
37 as follows:

1       (1) Upon every person engaging within this state in business as  
2 a manufacturer, except persons taxable as manufacturers under other  
3 provisions of this chapter; as to such persons the amount of the tax  
4 with respect to such business (~~(shall be)~~) is equal to the value of  
5 the products, including byproducts, manufactured, multiplied by the  
6 rate of (~~(0.484)~~) 0.73 percent.

7       (2) The measure of the tax is the value of the products,  
8 including byproducts, so manufactured regardless of the place of sale  
9 or the fact that deliveries may be made to points outside the state.

10       **Sec. 5.** RCW 82.04.240 and 2017 3rd sp.s. c 37 s 518 are each  
11 amended to read as follows:

12       (1) Upon every person engaging within this state in business as a  
13 manufacturer, except persons taxable as manufacturers under other  
14 provisions of this chapter; as to such persons the amount of the tax  
15 with respect to such business is equal to the value of the products,  
16 including byproducts, manufactured, multiplied by the rate of  
17 (~~(0.484)~~) 0.73 percent.

18       (2) (~~(a)~~) ~~Upon every person engaging within this state in the~~  
19 ~~business of manufacturing semiconductor materials, as to such persons~~  
20 ~~the amount of tax with respect to such business is, in the case of~~  
21 ~~manufacturers, equal to the value of the product manufactured, or, in~~  
22 ~~the case of processors for hire, equal to the gross income of the~~  
23 ~~business, multiplied by the rate of 0.275 percent. For the purposes~~  
24 ~~of this subsection "semiconductor materials" means silicon crystals,~~  
25 ~~silicon ingots, raw polished semiconductor wafers, compound~~  
26 ~~semiconductors, integrated circuits, and microchips.~~

27       ~~(b) A person reporting under the tax rate provided in this~~  
28 ~~subsection (2) must file a complete annual tax performance report~~  
29 ~~with the department under RCW 82.32.534.~~

30       ~~(3) The measure of the tax is the value of the products,~~  
31 ~~including byproducts, so manufactured regardless of the place of sale~~  
32 ~~or the fact that deliveries may be made to points outside the state.~~

33       ~~(4)) This section expires January 1, 2024, unless the~~  
34 ~~contingency in RCW 82.32.790(2) occurs.~~

35       **Sec. 6.** RCW 82.04.290 and 2014 c 97 s 404 are each amended to  
36 read as follows:

37       (1) (~~Upon every person engaging within this state in the~~  
38 ~~business of providing international investment management services,~~

1 ~~as to such persons, the amount of tax with respect to such business~~  
2 ~~is equal to the gross income or gross proceeds of sales of the~~  
3 ~~business multiplied by a rate of 0.275 percent.~~

4 ~~(2)(a))~~ Upon every person engaging within this state in any  
5 business activity other than or in addition to an activity taxed  
6 explicitly under another section in this chapter (~~or subsection (1)~~  
7 ~~or (3) of this section~~); as to such persons the amount of tax on  
8 account of such activities is equal to the gross income of the  
9 business multiplied by the rate of ~~((1.5))~~ 0.73 percent.

10 ~~((b) This))~~ (2) Subsection ~~((2))~~ (1) of this section includes,  
11 among others, and without limiting the scope hereof (whether or not  
12 title to materials used in the performance of such business passes to  
13 another by accession, confusion or other than by outright sale),  
14 persons engaged in the business of rendering any type of service  
15 which does not constitute a "sale at retail" or a "sale at  
16 wholesale." The value of advertising, demonstration, and promotional  
17 supplies and materials furnished to an agent by his or her principal  
18 or supplier to be used for informational, educational, and  
19 promotional purposes is not considered a part of the agent's  
20 remuneration or commission and is not subject to taxation under this  
21 section.

22 ~~((3)(a) Until July 1, 2040, upon every person engaging within~~  
23 ~~this state in the business of performing aerospace product~~  
24 ~~development for others, as to such persons, the amount of tax with~~  
25 ~~respect to such business is equal to the gross income of the business~~  
26 ~~multiplied by a rate of 0.9 percent.~~

27 ~~(b) A person reporting under the tax rate provided in this~~  
28 ~~subsection (3) must file a complete annual report with the department~~  
29 ~~under RCW 82.32.534.~~

30 ~~(c) "Aerospace product development" has the meaning as provided~~  
31 ~~in RCW 82.04.4461.)~~

32 **Sec. 7.** RCW 82.04.230 and 2006 c 300 s 5 are each amended to  
33 read as follows:

34 (1) Upon every person engaging within this state in business as  
35 an extractor, except persons taxable as an extractor under any other  
36 provision in this chapter; as to such persons the amount of the tax  
37 with respect to such business shall be equal to the value of the  
38 products, including by-products, extracted for sale or for commercial  
39 or industrial use, multiplied by the rate of ~~((0.484))~~ 0.73 percent.

1       (2) The measure of the tax is the value of the products,  
2 including by-products, so extracted, regardless of the place of sale  
3 or the fact that deliveries may be made to points outside the state.

4       NEW SECTION.   **Sec. 8.** A new section is added to chapter 82.04  
5 RCW to read as follows:

6       (1) In computing the tax imposed under this chapter for the  
7 reporting period, there may be deducted from the measure of tax the  
8 maximum sum of twenty thousand eight hundred eighty-three dollars  
9 multiplied by the number of months in the reporting period.

10       (2) The deduction under subsection (1) of this section may be  
11 claimed during a reporting period only if the taxpayers total taxable  
12 amount, prior to the deduction provided under subsection (1) of this  
13 section, is less than four hundred sixteen thousand six hundred  
14 sixty-seven dollars multiplied by the number of months in the  
15 reporting period.

16       (3) When the measure of tax is equal to or less than the  
17 deduction allowed under subsection (1) of this section, no tax is  
18 due. The deduction cannot be carried forward or backward to  
19 subsequent or prior reporting periods. No refunds are allowed for the  
20 deduction under this section.

21       (4) For taxpayers subject to taxes imposed under multiple  
22 provisions of this chapter, the deduction must be applied to the  
23 measure of tax in order of the business activities taxed at the  
24 highest to lowest rates and must be applied proportionally to  
25 business activities subject to the same tax rate.

26       (5) This deduction is in addition to any other applicable  
27 deductions or exemptions allowed for the taxes due under this chapter  
28 and must be claimed after all other deductions are claimed.

29       (6) The provisions of RCW 82.32.805 and 82.32.808 do not apply to  
30 this section.

31       NEW SECTION.   **Sec. 9.** The following acts or parts of acts are  
32 each repealed:

33       (1) RCW 82.04.2404 (Manufacturers—Processors for hire—  
34 Semiconductor materials) and 2017 3rd sp.s. c 37 s 503, (2017 3rd  
35 sp.s. c 37 s 502 expired January 1, 2018), 2017 c 135 s 10, 2010 c  
36 114 s 105, & 2006 c 84 s 2;

1 (2) RCW 82.04.255 (Tax on real estate brokers) and 2011 c 322 s  
2 2, 1997 c 7 s 1, 1996 c 1 s 1, 1993 sp.s. c 25 s 202, 1985 c 32 s 2,  
3 1983 2nd ex.s. c 3 s 1, 1983 c 9 s 1, & 1970 ex.s. c 65 s 3;

4 (3) RCW 82.04.257 (Tax on digital products and services) and 2017  
5 c 323 s 515, 2010 c 111 s 301, & 2009 c 535 s 401;

6 (4) RCW 82.04.260 (Tax on manufacturers and processors of various  
7 foods and by-products—Research and development organizations—Travel  
8 agents—Certain international activities—Stevedoring and associated  
9 activities—Low-level waste disposers—Insurance producers, surplus  
10 line brokers, and title insurance agents—Hospitals—Commercial  
11 airplane activities—Timber product activities—Canned salmon  
12 processors) and 2018 c 164 s 3 & 2017 c 135 s 11;

13 (5) RCW 82.04.263 (Tax on cleaning up radioactive waste and other  
14 by-products of weapons production and nuclear research and  
15 development) and 2009 c 469 s 202 & 1996 c 112 s 3;

16 (6) RCW 82.04.272 (Tax on warehousing and reselling prescription  
17 drugs) and 2013 c 19 s 127, 2003 c 168 s 401, & 1998 c 343 s 1;

18 (7) RCW 82.04.280 (Tax on printers, publishers, highway  
19 contractors, extracting or processing for hire, cold storage  
20 warehouse or storage warehouse operation, insurance general agents,  
21 radio and television broadcasting, government contractors—Cold  
22 storage warehouse defined—Storage warehouse defined—Periodical or  
23 magazine defined) and 2017 c 323 s 508;

24 (8) RCW 82.04.285 (Tax on contests of chance) and 2014 c 97 s 303  
25 & 2005 c 369 s 5;

26 (9) RCW 82.04.286 (Tax on horse races) and 2005 c 369 s 6;

27 (10) RCW 82.04.2905 (Tax on providing day care) and 1998 c 312 s  
28 7;

29 (11) RCW 82.04.2906 (Tax on certain chemical dependency services)  
30 and 2003 c 343 s 1;

31 (12) RCW 82.04.2907 (Tax on royalties) and 2015 3rd sp.s. c 5 s  
32 101, 2010 1st sp.s. c 23 s 107, (2010 1st sp.s. c 23 s 106 expired  
33 July 1, 2010), 2010 c 111 s 302, 2009 c 535 s 407, 2001 c 320 s 3, &  
34 1998 c 331 s 1;

35 (13) RCW 82.04.2908 (Tax on provision of room and domiciliary  
36 care to assisted living facility residents) and 2012 c 10 s 70, 2005  
37 c 514 s 302, & 2004 c 174 s 1;

38 (14) RCW 82.04.2909 (Tax on aluminum smelters) and 2017 c 135 s  
39 12, 2015 3rd sp.s. c 6 s 502, & 2011 c 174 s 301;

1 (15) RCW 82.04.294 (Tax on manufacturers or wholesalers of solar  
2 energy systems) and 2017 3rd sp.s. c 37 s 403, 2017 3rd sp.s. c 37 s  
3 402, 2013 2nd sp.s. c 13 s 902, 2011 c 179 s 1, 2010 c 114 s 109,  
4 2009 c 469 s 501, 2007 c 54 s 8, & 2005 c 301 s 2; and

5 (16) RCW 82.04.298 (Tax on qualified grocery distribution  
6 cooperatives) and 2011 c 2 s 204, 2010 1st sp.s. c 23 s 511, 2008 c  
7 49 s 1, & 2001 1st sp.s. c 9 s 1.

8 **Sec. 10.** RCW 82.32.790 and 2017 3rd sp.s. c 37 s 526 are each  
9 amended to read as follows:

10 (1) (a) Section 5, chapter . . ., Laws of 2019 (section 5 of this  
11 act), sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter  
12 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32,  
13 and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125,  
14 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3,  
15 and 5 through 10, chapter 149, Laws of 2003 are contingent upon the  
16 siting and commercial operation of a significant semiconductor  
17 microchip fabrication facility in the state of Washington by January  
18 1, 2024.

19 (b) For the purposes of this section:

20 (i) "Commercial operation" means the same as "commencement of  
21 commercial production" as used in RCW 82.08.965.

22 (ii) "Semiconductor microchip fabrication" means "manufacturing  
23 semiconductor microchips" as defined in RCW 82.04.426.

24 (iii) "Significant" means the combined investment of new  
25 buildings and new machinery and equipment in the buildings, at the  
26 commencement of commercial production, will be at least one billion  
27 dollars.

28 (2) The sections referenced in subsection (1) of this section  
29 take effect the first day of the month in which a contract for the  
30 construction of a significant semiconductor fabrication facility is  
31 signed, if the contract is signed and received by January 1, 2024, as  
32 determined by the director of the department of revenue.

33 (3) (a) The department of revenue must provide notice of the  
34 effective date of the sections referenced in subsection (1) of this  
35 section to affected taxpayers, the legislature, and others as deemed  
36 appropriate by the department.

37 (b) If, after making a determination that a contract has been  
38 signed and the sections referenced in subsection (1) of this section  
39 are effective, the department discovers that commencement of

1 commercial production did not take place within three years of the  
2 date the contract was signed, the department must make a  
3 determination that chapter 149, Laws of 2003 is no longer effective,  
4 and all taxes that would have been otherwise due are deemed deferred  
5 taxes and are immediately assessed and payable from any person  
6 (~~reporting tax under RCW 82.04.240(2) or~~) claiming an exemption or  
7 credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965,  
8 82.08.970, 82.12.970, or 84.36.645. The department is not authorized  
9 to make a second determination regarding the effective date of the  
10 sections referenced in subsection (1) of this section.

11 (4)(a) This section expires January 1, 2024, if the contingency  
12 in subsection (2) of this section does not occur by January 1, 2024,  
13 as determined by the department.

14 (b) The department must provide written notice of the expiration  
15 date of this section and the sections referenced in subsection (1) of  
16 this section to affected taxpayers, the legislature, and others as  
17 deemed appropriate by the department.

18 NEW SECTION. **Sec. 11.** Except for section 5 of this act, this  
19 act takes effect October 1, 2019.

20 NEW SECTION. **Sec. 12.** Section 4 of this act expires on the date  
21 that section 5 of this act takes effect.

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