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**HOUSE BILL 2099**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representatives Berg, Frame, and Sutherland; by request of Department of Revenue

Read first time 01/26/22. Referred to Committee on Finance.

1 AN ACT Relating to improving tax administration by waiving  
2 penalties and imposing interest in certain situations involving  
3 delayed tax payments, and by extending a statute of limitations  
4 period for certain egregious tax crimes; amending RCW 82.32.050;  
5 reenacting and amending RCW 9A.04.080; adding new sections to chapter  
6 82.32 RCW; creating a new section; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.32  
9 RCW to read as follows:

10 Except as otherwise provided in this chapter, interest applies to  
11 taxes that are not paid by the original due date even though the  
12 department has granted an extension as authorized under this chapter.  
13 However, the department may not assess penalties for late payment of  
14 any such tax that is paid in full by the extended due date.

15 **Sec. 2.** RCW 82.32.050 and 2020 c 139 s 60 are each amended to  
16 read as follows:

17 (1) If upon examination of any returns or from other information  
18 obtained by the department it appears that a tax or penalty has been  
19 paid less than that properly due, the department shall assess against  
20 the taxpayer such additional amount found to be due and shall add

1 thereto interest on the tax only. The department shall notify the  
2 taxpayer by mail, or electronically as provided in RCW 82.32.135, of  
3 the additional amount and the additional amount shall become due and  
4 shall be paid within thirty days from the date of the notice, or  
5 within such further time as the department may provide.

6 (a) For tax liabilities arising before January 1, 1992, interest  
7 shall be computed at the rate of nine percent per annum from the last  
8 day of the year in which the deficiency is incurred until the earlier  
9 of December 31, 1998, or the date of payment. After December 31,  
10 1998, the rate of interest shall be variable and computed as provided  
11 in subsection (2) of this section. The rate so computed shall be  
12 adjusted on the first day of January of each year for use in  
13 computing interest for that calendar year.

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

20 (c) (i) Except as otherwise provided in (~~(c)(ii)~~ of) this  
21 subsection (1)(c), interest imposed after December 31, 1998, shall be  
22 computed from the last day of the month following each calendar year  
23 included in a notice, and the last day of the month following the  
24 final month included in a notice if not the end of a calendar year,  
25 until the due date of the notice.

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

31 (iii) For purposes of computing interest under (c)(i) and (ii) of  
32 this subsection (1):

33 (A) The same computation of interest applies regardless of  
34 whether the department grants additional time for filing any return  
35 under RCW 82.32.080(4)(a)(i).

36 (B) If the department extends a due date under subsection (3) of  
37 this section or RCW 82.32.080(4)(b), and payment is not made in full  
38 by the extended due date, interest is computed from the last day of  
39 the month in which the extended due date occurs until the date of  
40 payment.

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

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

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

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

30        (5) For the purposes of this section, (~~"return"~~) the following  
31 definitions apply:

32        (a) "Due date of the notice" means the date indicated in the  
33 notice by which the amount due in the notice must be paid, or such  
34 later date as provided by RCW 1.12.070(3).

35        (b) "Return" means any document a person is required by the state  
36 of Washington to file to satisfy or establish a tax or fee obligation  
37 that is administered or collected by the department of revenue and  
38 that has a statutorily defined due date.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 82.32  
2    RCW to read as follows:

3        (1) The department may enter into an agreement with a voluntary  
4    registrant in which the department waives any portion of penalties  
5    that would otherwise be imposed on the voluntary registrant under RCW  
6    82.32.090 (1), (2), or (4), for tax liability incurred while the  
7    person was not registered as required by RCW 82.32.030.

8        (2) For the purposes of this section, "voluntary registrant"  
9    means any person who:

10       (a) Engages in any taxable activity that requires registration  
11    under RCW 82.32.030, while unregistered;

12       (b) Submits an application for a registration certificate under  
13    RCW 82.32.030 prior to any department contact with the person or any  
14    of its affiliates;

15       (c) Has not engaged in fraud, evasion, or misrepresentation in  
16    reporting tax liabilities, with regard to any tax administered by the  
17    department under this chapter;

18       (d) Has disclosed all relevant taxable activity to the  
19    department; and

20       (e) Attests, under penalty of perjury, in a form and manner as  
21    required by the department, that the person meets the requirements of  
22    (a) through (d) of this subsection and any rules adopted by the  
23    department as authorized under subsection (5) of this section.

24       (3)(a) For the purposes of qualifying as a voluntary registrant  
25    under subsection (2) of this section, the department is deemed to  
26    have contacted the person or any of its affiliates, if, during the  
27    current or preceding four calendar years:

28       (i) The contact is for tax enforcement purposes;

29       (ii) The contact is clearly directed to that person or any of its  
30    affiliates; and

31       (iii) The contact requests the person or any of its affiliates to  
32    take some action in response to the contact.

33       (b) For purposes of this subsection (3), the following  
34    definitions apply:

35       (i) "Affiliate" means a person that directly or indirectly,  
36    through one or more intermediaries, controls, is controlled by, or is  
37    under common control, with another person.

38       (ii) "Control" means the possession, directly or indirectly, of  
39    more than 50 percent of the power to direct or cause the direction of

1 the management and policies of a person, whether through the  
2 ownership of voting shares, by contract, or otherwise.

3 (4) If the department determines that facts differ materially  
4 from what the taxpayer originally represented to the department to  
5 qualify as a voluntary registrant, the penalty relief granted under  
6 subsection (1) of this section may be rescinded, in whole or in part,  
7 at the discretion of the department.

8 (5) The department may adopt rules for the administration of this  
9 section.

10 NEW SECTION. **Sec. 4.** With regard to the imposition of interest,  
11 sections 1 and 2 of this act apply to taxes due under an extension  
12 granted by the department of revenue on or after January 1, 2023,  
13 except in cases where the department of revenue received the request  
14 for the extension before January 1, 2023.

15 **Sec. 5.** RCW 9A.04.080 and 2019 c 93 s 2 and 2019 c 87 s 2 are  
16 each reenacted and amended to read as follows:

17 (1) Prosecutions for criminal offenses shall not be commenced  
18 after the periods prescribed in this section.

19 (a) The following offenses may be prosecuted at any time after  
20 their commission:

21 (i) Murder;

22 (ii) Homicide by abuse;

23 (iii) Arson if a death results;

24 (iv) Vehicular homicide;

25 (v) Vehicular assault if a death results;

26 (vi) Hit-and-run injury-accident if a death results (RCW  
27 46.52.020(4));

28 (vii) Rape in the first degree (RCW 9A.44.040) if the victim is  
29 under the age of sixteen;

30 (viii) Rape in the second degree (RCW 9A.44.050) if the victim is  
31 under the age of sixteen;

32 (ix) Rape of a child in the first degree (RCW 9A.44.073);

33 (x) Rape of a child in the second degree (RCW 9A.44.076);

34 (xi) Rape of a child in the third degree (RCW 9A.44.079);

35 (xii) Sexual misconduct with a minor in the first degree (RCW  
36 9A.44.093);

37 (xiii) Custodial sexual misconduct in the first degree (RCW  
38 9A.44.160);

- 1 (xiv) Child molestation in the first degree (RCW 9A.44.083);
- 2 (xv) Child molestation in the second degree (RCW 9A.44.086);
- 3 (xvi) Child molestation in the third degree (RCW 9A.44.089); and
- 4 (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

5 (b) Except as provided in (a) of this subsection, the following  
6 offenses may not be prosecuted more than twenty years after its  
7 commission:

- 8 (i) Rape in the first degree (RCW 9A.44.040);
- 9 (ii) Rape in the second degree (RCW 9A.44.050); or
- 10 (iii) Indecent liberties (RCW 9A.44.100).

11 (c) The following offenses may not be prosecuted more than ten  
12 years after its commission:

13 (i) Any felony committed by a public officer if the commission is  
14 in connection with the duties of his or her office or constitutes a  
15 breach of his or her public duty or a violation of the oath of  
16 office;

- 17 (ii) Arson if no death results;
- 18 (iii) Rape in the third degree (RCW 9A.44.060);
- 19 (iv) Attempted murder; or
- 20 (v) Trafficking under RCW 9A.40.100.

21 (d) A violation of any offense listed in this subsection (1)(d)  
22 may be prosecuted up to ten years after its commission or, if  
23 committed against a victim under the age of eighteen, up to the  
24 victim's thirtieth birthday, whichever is later:

- 25 (i) RCW 9.68A.100 (commercial sexual abuse of a minor);
- 26 (ii) RCW 9.68A.101 (promoting commercial sexual abuse of a  
27 minor);
- 28 (iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse  
29 of a minor); or
- 30 (iv) RCW 9A.64.020 (incest).

31 (e) The following offenses may not be prosecuted more than six  
32 years after its commission or discovery, whichever occurs later:

- 33 (i) Violations of RCW 9A.82.060 or 9A.82.080;
- 34 (ii) Any felony violation of chapter 9A.83 RCW;
- 35 (iii) Any felony violation of chapter 9.35 RCW;
- 36 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
37 when accomplished by color or aid of deception;
- 38 (v) Theft from a vulnerable adult under RCW 9A.56.400; (~~(e)~~)
- 39 (vi) Trafficking in stolen property in the first or second degree  
40 under chapter 9A.82 RCW in which the stolen property is a motor

1 vehicle or major component part of a motor vehicle as defined in RCW  
2 46.80.010; or

3 (vii) Violations of RCW 82.32.290 (2) (a) (iii) or (4).

4 (f) The following offenses may not be prosecuted more than five  
5 years after its commission: Any class C felony under chapter 74.09,  
6 82.36, or 82.38 RCW.

7 (g) Bigamy may not be prosecuted more than three years after the  
8 time specified in RCW 9A.64.010.

9 (h) A violation of RCW 9A.56.030 may not be prosecuted more than  
10 three years after the discovery of the offense when the victim is a  
11 tax exempt corporation under 26 U.S.C. Sec. 501(c) (3).

12 (i) No other felony may be prosecuted more than three years after  
13 its commission; except that in a prosecution under RCW 9A.44.115, if  
14 the person who was viewed, photographed, or filmed did not realize at  
15 the time that he or she was being viewed, photographed, or filmed,  
16 the prosecution must be commenced within two years of the time the  
17 person who was viewed or in the photograph or film first learns that  
18 he or she was viewed, photographed, or filmed.

19 (j) No gross misdemeanor may be prosecuted more than two years  
20 after its commission.

21 (k) No misdemeanor may be prosecuted more than one year after its  
22 commission.

23 (2) The periods of limitation prescribed in subsection (1) of  
24 this section do not run during any time when the person charged is  
25 not usually and publicly resident within this state.

26 (3) In any prosecution for a sex offense as defined in RCW  
27 9.94A.030, the periods of limitation prescribed in subsection (1) of  
28 this section run from the date of commission or two years from the  
29 date on which the identity of the suspect is conclusively established  
30 by deoxyribonucleic acid testing or by photograph as defined in RCW  
31 9.68A.011, whichever is later.

32 (4) If, before the end of a period of limitation prescribed in  
33 subsection (1) of this section, an indictment has been found or a  
34 complaint or an information has been filed, and the indictment,  
35 complaint, or information is set aside, then the period of limitation  
36 is extended by a period equal to the length of time from the finding  
37 or filing to the setting aside.

1        NEW SECTION.   **Sec. 6.**   Except for section 5 of this act, this act  
2   takes effect January 1, 2023.

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