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SENATE BILL 5963

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State of Washington

67th Legislature

2022 Regular Session

By Senators Nguyen, Robinson, Stanford, and C. Wilson; by request of Department of Revenue

Read first time 01/31/22. Referred to Committee on Ways & Means.

1 AN ACT Relating to the working families' tax exemption, also  
2 known as the working families tax credit; and amending RCW  
3 82.08.0206, 82.32.050, and 82.32.290.

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

5 **Sec. 1.** RCW 82.08.0206 and 2021 c 195 s 2 are each amended to  
6 read as follows:

7 (1) A working families' tax ~~((exemption))~~ credit, in the form of  
8 a ~~((remittance))~~ refund of tax due under this chapter and chapter  
9 82.12 RCW, is provided to eligible low-income persons for sales and  
10 use taxes paid under this chapter and chapter 82.12 RCW after January  
11 1, 2022.

12 (2) For purposes of the ~~((exemption))~~ credit in this section, the  
13 following definitions apply:

14 (a) (i) ~~((Except as provided in (a)(ii) of this subsection,~~  
15 ~~"eligible"))~~ "Eligible low-income person" means an individual who:

16 (A) Is eligible for the credit provided in Title 26 U.S.C. Sec.  
17 32 of the internal revenue code; and

18 (B) Properly files a federal income tax return ~~((as a Washington~~  
19 ~~resident))~~ for the prior federal tax year, and has been a resident of  
20 the state of Washington more than ~~((one hundred eighty))~~ 180 days of  
21 the year for which the ~~((exemption))~~ credit is claimed.

1 (ii) "Eligible low-income person" also means an individual who:

2 (A) Meets the requirements provided in (a)(i)(B) of this  
3 subsection; and

4 (B) Would otherwise qualify for the credit provided in Title 26  
5 U.S.C. Sec. 32 of the internal revenue code except for the fact that  
6 the individual filed a federal income tax return (~~(in)~~) for the prior  
7 federal tax year using a valid individual taxpayer identification  
8 number in lieu of a social security number, (~~(or)~~) and the  
9 (~~individual has a~~) individual's spouse (~~(or dependent without)~~), if  
10 any, and all qualifying children, if any, have a valid individual  
11 taxpayer identification number or a social security number.

12 (b) "Income" means earned income as defined by Title 26 U.S.C.  
13 Sec. 32 of the internal revenue code.

14 (c) "Individual" means an individual or an individual and that  
15 individual's spouse if they file a federal joint income tax return.

16 (d) "Internal revenue code" means the United States internal  
17 revenue code of 1986, as amended, as of the effective date of this  
18 section, or such subsequent date as the department may provide by  
19 rule consistent with the purpose of this section.

20 (e) "Qualifying child" means a qualifying child as defined by  
21 Title 26 U.S.C. Sec. 32 of the internal revenue code, except the  
22 child may have a valid individual taxpayer identification number in  
23 lieu of a social security number.

24 (3)(a) Except as provided in (b) and (c) of this subsection, for  
25 calendar year 2023 and thereafter, the working families' tax  
26 (~~(remittance)~~) credit refund amount for the prior calendar year is:

27 (i) \$300 for eligible persons with no qualifying children;

28 (ii) \$600 for eligible persons with one qualifying child;

29 (iii) \$900 for eligible persons with two qualifying children; or

30 (iv) \$1,200 for eligible persons with three or more qualifying  
31 children.

32 (b) The (~~(remittance)~~) refund amounts provided in (a) of this  
33 subsection will be reduced, rounded to the nearest dollar, as  
34 follows:

35 (i) For eligible persons with no qualifying children, beginning  
36 at \$2,500 of income below the federal phase-out income for the prior  
37 federal tax year, by 18 percent per additional dollar of income until  
38 the minimum credit amount as specified in (c) of this subsection is  
39 reached.

1 (ii) For eligible persons with one qualifying child, beginning at  
2 \$5,000 of income below the federal phase-out income for the prior  
3 federal tax year, by 12 percent per additional dollar of income until  
4 the minimum credit amount as specified in (c) of this subsection is  
5 reached.

6 (iii) For eligible persons with two qualifying children,  
7 beginning at \$5,000 of income below the federal phase-out income for  
8 the prior federal tax year, by 15 percent per additional dollar of  
9 income until the minimum credit amount as specified in (c) of this  
10 subsection is reached.

11 (iv) For eligible persons with three or more qualifying children,  
12 beginning at \$5,000 of income below the federal phase-out income for  
13 the prior federal tax year, by 18 percent per additional dollar of  
14 income until the minimum credit amount as specified in (c) of this  
15 subsection is reached.

16 (c) If the ~~((remittance))~~ refund for an eligible person as  
17 calculated in this section is greater than or equal to one cent, but  
18 less than \$50, the ~~((remittance))~~ refund amount is \$50.

19 (d) The ~~((remittance))~~ refund amounts in this section shall be  
20 adjusted for inflation every year beginning January 1, 2024, based  
21 upon changes in the consumer price index ~~((during the previous  
22 calendar year))~~ that are published by November 15th of the previous  
23 year for the most recent 12-month period. The adjusted refund amounts  
24 must be rounded to the nearest \$5.00.

25 (e) For purposes of this section, "consumer price index" means,  
26 for any ~~((calendar year))~~ 12-month period, ~~((that year's))~~ the  
27 average consumer price index for that 12-month period for the  
28 Seattle, Washington area for urban wage earners and clerical workers,  
29 all items, compiled by the bureau of labor statistics, United States  
30 department of labor.

31 (4) The working families' tax ~~((exemption))~~ credit shall be  
32 administered as provided in this subsection.

33 (a) The ~~((remittance))~~ refund paid under this section will be  
34 paid to eligible filers who apply pursuant to this subsection.

35 (i) Application must be made to the department in a form and  
36 manner determined by the department. If the application process is  
37 initially done electronically, the department must provide a paper  
38 application upon request. The application must include any  
39 information and documentation as required by the department.

1 (ii) Application for the (~~remittance~~) refund under this section  
2 must be made in the year following the year for which the federal tax  
3 return was filed, but in no case may any (~~remittance~~) refund be  
4 provided for any period before January 1, 2022. The department must  
5 use the eligible person's most recent federal tax filing for the tax  
6 year for which the refund is being claimed to (~~process~~) calculate  
7 the (~~remittance~~) refund.

8 (iii) A person may not claim (~~an exemption~~) a credit on behalf  
9 of a deceased individual. No individual may claim (~~an exemption~~) a  
10 credit under this section for any year in a disallowance period under  
11 Title 26 U.S.C. Sec. 32(k)(1) of the internal revenue code or for any  
12 year for which the individual is ineligible to claim the credit in  
13 Title 26 U.S.C. Sec. 32 of the internal revenue code by reason of  
14 Title 26 U.S.C. Sec. 32(k)(2) of the internal revenue code.

15 (b) The department shall protect the privacy and confidentiality  
16 of personal data of (~~remittance~~) refund recipients in accordance  
17 with chapter 82.32 RCW.

18 (c) The department shall, in conjunction with other agencies or  
19 organizations, design and implement a public information campaign to  
20 inform potentially eligible persons of the existence of, and  
21 requirements for, the credit provided in this section.

22 (d) The department must work with the internal revenue service to  
23 administer the (~~exemption~~) credit on an automatic basis as soon as  
24 practicable.

25 (5) Receipt of the (~~remittance~~) refund under this section may  
26 not be used in eligibility determinations for any state income  
27 support programs or in making public charge determinations.

28 (6) The department may adopt rules necessary to implement this  
29 section. This includes establishing a date by which applications will  
30 be accepted, with the aim of accepting applications as soon as  
31 possible. (~~The department may gather necessary data through audit~~  
32 ~~and other administrative records, including verification through~~  
33 ~~internal revenue service data.))~~

34 (7) The department must review the application and determine  
35 eligibility for the working families' tax (~~exemption~~) credit based  
36 on information provided by the applicant and through audit and other  
37 administrative records, including, when it deems it necessary,  
38 verification through internal revenue service data.

39 (8) If, upon review of internal revenue service data or other  
40 information obtained by the department, it appears that an individual

1 received a ((~~remittance~~)) refund that the individual was not entitled  
2 to, or received a larger ((~~remittance~~)) refund than the individual  
3 was entitled to, the department may assess against the individual the  
4 overpaid amount. The department may also assess such overpaid amount  
5 against the individual's spouse if the ((~~remittance~~)) refund in  
6 question was based on both spouses filing a joint federal income tax  
7 return for the year for which the ((~~remittance~~)) refund was claimed.

8 (a) Interest as provided under RCW 82.32.050 applies to  
9 assessments authorized under this subsection (8) starting six months  
10 after the date the department issued the assessment until the amount  
11 due under this subsection (8) is paid in full to the department.  
12 Except as otherwise provided in this subsection, penalties may not be  
13 assessed on amounts due under this subsection.

14 (b) If an amount due under this subsection is not paid in full by  
15 the date due, or the department issues a warrant for the collection  
16 of amounts due under this subsection, the department may assess the  
17 applicable penalties under RCW 82.32.090. Penalties under this  
18 subsection (8)(b) may not be made due until six months after  
19 ((~~their~~)) the department's issuance of the assessment.

20 (c) If the department finds by clear, cogent, and convincing  
21 evidence that an individual knowingly submitted, caused to be  
22 submitted, or consented to the submission of, a fraudulent claim for  
23 ((~~remittance~~)) refund under this section, the department must assess  
24 a penalty of 50 percent of the overpaid amount. This penalty is in  
25 addition to any other applicable penalties assessed in accordance  
26 with (b) of this subsection (8).

27 (9) If, within the period allowed for refunds under RCW  
28 82.32.060, the department finds that an individual received a lesser  
29 ((~~remittance~~)) refund than the individual was entitled to, the  
30 department must remit the additional amount due under this section to  
31 the individual.

32 (10) Interest does not apply to ((~~remittances~~)) refunds provided  
33 under ((~~chapter 195, Laws of 2021~~)) this section.

34 (11) Chapter 82.32 RCW applies to the administration of this  
35 section.

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

38 (1) If upon examination of any returns or from other information  
39 obtained by the department it appears that a tax or penalty has been

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

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

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

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

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

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

39 (2) For the purposes of this section, the rate of interest to be  
40 charged to the taxpayer shall be an average of the federal short-term

1 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.  
2 The rate set for each new year shall be computed by taking an  
3 arithmetical average to the nearest percentage point of the federal  
4 short-term rate, compounded annually. That average shall be  
5 calculated using the rates from four months: January, April, and July  
6 of the calendar year immediately preceding the new year, and October  
7 of the previous preceding year.

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

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

22 (5) For the purposes of this section, "return" means any document  
23 a person is required by the state of Washington to file to satisfy or  
24 establish a tax or fee obligation that is administered or collected  
25 by the department (~~of revenue~~) and that has a statutorily defined  
26 due date. "Return" also means an application for refund under RCW  
27 82.08.0206.

28 **Sec. 3.** RCW 82.32.290 and 2013 c 309 s 2 are each amended to  
29 read as follows:

30 (1)(a) It is unlawful:

31 (i) For any person to engage in business without having obtained  
32 a certificate of registration as provided in this chapter;

33 (ii) For the president, vice president, secretary, treasurer, or  
34 other officer of any company to cause or permit the company to engage  
35 in business without having obtained a certificate of registration as  
36 provided in this chapter;

37 (iii) For any person to tear down or remove any order or notice  
38 posted by the department in violation of this chapter;

1 (iv) For any person to aid or abet another in any attempt to  
2 evade the payment of any tax or any part thereof;

3 (v) For any purchaser to fraudulently sign or furnish to a seller  
4 documentation authorized under RCW 82.04.470 without intent to resell  
5 the property purchased or with intent to otherwise use the property  
6 in a manner inconsistent with the claimed wholesale purchase; or

7 (vi) For any person to fail or refuse to permit the examination  
8 of any book, paper, account, record, or other data by the department  
9 or its duly authorized agent; or to fail or refuse to permit the  
10 inspection or appraisal of any property by the department or its duly  
11 authorized agent; or to refuse to offer testimony or produce any  
12 record as required.

13 (b) Any person violating any of the provisions of this subsection  
14 (1) is guilty of a gross misdemeanor in accordance with chapter 9A.20  
15 RCW.

16 (2)(a) It is unlawful:

17 (i) For any person to engage in business after revocation of a  
18 certificate of registration unless the person's certification of  
19 registration has been reinstated;

20 (ii) For the president, vice president, secretary, treasurer, or  
21 other officer of any company to cause or permit the company to engage  
22 in business after revocation of a certificate of registration unless  
23 the company's certificate of registration has been reinstated; or

24 (iii) For any person to make any false or fraudulent return or  
25 false statement in any return, with intent to defraud the state or  
26 evade the payment of any tax or part thereof.

27 (b) Any person violating any of the provisions of this subsection  
28 (2) is guilty of a class C felony in accordance with chapter 9A.20  
29 RCW.

30 (3) In addition to the foregoing penalties, any person who  
31 knowingly swears to or verifies any false or fraudulent return, or  
32 any return containing any false or fraudulent statement with the  
33 intent aforesaid, is guilty of the offense of perjury in the second  
34 degree((~~+~~)) and ((~~any company for which a false return, or a return~~  
35 ~~containing a false statement, as aforesaid, is made,~~)) must be  
36 punished, upon conviction thereof, by a fine of not more than one  
37 thousand dollars.

38 (4)(a) It is unlawful for any person to knowingly sell, purchase,  
39 install, transfer, manufacture, create, design, update, repair, use,  
40 possess, or otherwise make available, in this state, any automated



1 sales suppression device or phantom-ware. However, it is not unlawful  
2 for persons to possess or use automated sales suppression devices or  
3 phantom-ware as authorized in RCW 82.32.670(6).

4 (b) It is unlawful for any person who has been convicted of  
5 violating this section to engage in business, or participate in any  
6 business as an owner, officer, director, partner, trustee, member, or  
7 manager of the business, unless:

8 (i) All taxes, penalties, and interest lawfully due are paid;

9 (ii) The person pays in full all penalties and fines imposed on  
10 the person for violating this section; and

11 (iii) The person, if the person is engaging in business subject  
12 to tax under this title, or the business in which the person  
13 participates, enters into a written agreement with the department for  
14 the electronic monitoring of the business's sales, by a method  
15 acceptable to the department, for five years at the business's  
16 expense.

17 (c)(i) Any person violating the provisions of this subsection,  
18 including material breach of the monitoring agreement under (b)(iii)  
19 of this subsection, is guilty of a class C felony in accordance with  
20 chapter 9A.20 RCW and, as applicable, (c)(ii) of this subsection.

21 (ii) Any person violating the provisions of this subsection by  
22 furnishing an automated sales suppression device or phantom-ware to  
23 another person or by updating or repairing another person's automated  
24 sales suppression device or phantom-ware is, in addition to the  
25 punishments prescribed in chapter 9A.20 RCW, subject to a mandatory  
26 fine fixed by the court in an amount equal to the greater of ten  
27 thousand dollars, the defendant's gain from the commission of the  
28 crime, or the state's loss from the commission of the crime. For  
29 purposes of this subsection (4)(c)(ii), "loss" means the total of all  
30 taxes, penalties, and interest certified by the department to be due,  
31 as of the date of sentencing, as a result of any violation of the  
32 provisions of this subsection by a person using the automated sales  
33 suppression device or phantom-ware obtained from, or updated or  
34 repaired by, the defendant, which results in the defendant's  
35 conviction for violating the provisions of this subsection.

36 (d) For the purposes of this subsection (4), the terms "manager,"  
37 "member," and "officer" have the same meaning as in RCW 82.32.145.

38 (e) The definitions in RCW 82.32.670 apply to this subsection  
39 (4).

1           (5) All penalties or punishments provided in this section are in  
2 addition to all other penalties provided by law.

3           (6) For the purposes of this section, "return" has the same  
4 meaning as in RCW 82.32.050.

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