

SHB 1234 - H COMM AMD

By Committee on Capital BudgetBy Committee on Capital Budget

1 Strike everything after the enacting clause and insert the
2 following:

3

4 **Sec. 1.** RCW 82.32.010 and 2010 1st sp.s. c 19 s 13 are each
5 amended to read as follows:

6 The provisions of this chapter apply with respect to the taxes
7 imposed under chapters 82.04 through 82.14 RCW, under chapter 82.14B
8 RCW, under chapters 82.16 through 82.29A RCW of this title, under
9 chapter 84.33 RCW, and under other titles, chapters, and sections in
10 such manner and to such extent as indicated in each such title,
11 chapter, or section.

12

13 **Sec. 2.** RCW 82.32.020 and 2019 c 8 s 402 are each amended to
14 read as follows:

15 For the purposes of this chapter:

16 (1) The meaning attributed in chapters 82.01 through 82.27 RCW to
17 the words and phrases "tax year," "taxable year," "person,"
18 "company," "gross proceeds of sales," "gross income of the business,"
19 "business," "engaging in business," "successor," "gross operating
20 revenue," "gross income," "taxpayer," "retail sale," "seller,"
21 "buyer," "purchaser," "extended warranty," and "value of products"
22 apply equally to the provisions of this chapter.

23 (2) Unless the context clearly requires otherwise, the term "tax"
24 includes any monetary exaction, regardless of its label, that the
25 department is responsible for collecting, but not including interest,
26 penalties, the surcharge imposed in RCW 40.14.027, or fees incurred
27 by the department and recouped from taxpayers.

1 (3) Whenever "property" or "personal property" is used, those
2 terms must be construed to include digital goods and digital codes
3 unless: (a) It is clear from the context that the term "personal
4 property" is intended only to refer to tangible personal property;
5 (b) it is clear from the context that the term "property" is intended
6 only to refer to tangible personal property, real property, or both;
7 or (c) to construe the term "property" or "personal property" as
8 including digital goods and digital codes would yield unlikely,
9 absurd, or strained consequences.

10 (4) The definitions in this subsection apply throughout this
11 chapter, unless the context clearly requires otherwise.

12 (a) "Agreement" means the streamlined sales and use tax
13 agreement.

14 (b) "Associate member" means a petitioning state that is found to
15 be in compliance with the agreement and changes to its laws, rules,
16 or other authorities necessary to bring it into compliance are not in
17 effect, but are scheduled to take effect on or before January 1,
18 2008. The petitioning states, by majority vote, may also grant
19 associate member status to a petitioning state that does not receive
20 an affirmative vote of three-fourths of the petitioning states upon a
21 finding that the state has achieved substantial compliance with the
22 terms of the agreement as a whole, but not necessarily each required
23 provision, measured qualitatively, and there is a reasonable
24 expectation that the state will achieve compliance by January 1,
25 2008.

26 (c) "Certified automated system" means software certified under
27 the agreement to calculate the tax imposed by each jurisdiction on a
28 transaction, determine the amount of tax to remit to the appropriate
29 state, and maintain a record of the transaction.

30 (d) "Certified service provider" means an agent certified under
31 the agreement to perform all of the seller's sales and use tax
32 functions, other than the seller's obligation to remit tax on its own
33 purchases.

34 (e)(i) "Member state" means a state that:

1 (A) Has petitioned for membership in the agreement and submitted
2 a certificate of compliance; and

3 (B) Before the effective date of the agreement, has been found to
4 be in compliance with the requirements of the agreement by an

5 affirmative vote of three-fourths of the other petitioning states; or
6 (C) After the effective date of the agreement, has been found to

7 be in compliance with the agreement by a three-fourths vote of the
8 entire governing board of the agreement.

9 (ii) Membership by reason of (e)(i)(A) and (B) of this subsection
10 is effective on the first day of a calendar quarter at least sixty
11 days after at least ten states comprising at least twenty percent of
12 the total population, as determined by the 2000 federal census, of
13 all states imposing a state sales tax have petitioned for membership
14 and have either been found in compliance with the agreement or have
15 been found to be an associate member under section 704 of the
16 agreement.

17 (iii) Membership by reason of (e)(i)(A) and (C) of this
18 subsection is effective on the state's proposed date of entry or the
19 first day of the calendar quarter after its petition is approved by
20 the governing board, whichever is later, and is at least sixty days
21 after its petition is approved.

22 (f) "Model 1 seller" means a seller that has selected a certified
23 service provider as its agent to perform all the seller's sales and
24 use tax functions as outlined in the contract between the streamlined
25 sales tax governing board and the certified service provider, other
26 than the seller's obligation to remit tax on its own purchases.

27 (g) "Model 2 seller" means a seller that has selected a certified
28 automated system to perform part of its sales and use tax functions,
29 but retains responsibility for remitting the tax.

30 (h) "Model 3 seller" means a seller that has sales in at least
31 five member states, has total annual sales revenue of at least five
32 hundred million dollars, has a proprietary system that calculates the
33 amount of tax due each jurisdiction, and has entered into a
34 performance agreement with the member states that establishes a tax

1 performance standard for the seller. As used in this subsection (4)
2 (h), a seller includes an affiliated group of sellers using the same
3 proprietary system.

4 (i) "Source" means the location in which the sale or use of
5 tangible personal property, a digital good or digital code, an
6 extended warranty, or a digital automated service or other service,
7 subject to tax under chapter 82.08, 82.12, 82.14, or 82.14B RCW, is
8 deemed to occur.

9
10 **Sec. 3.** RCW 82.32.023 and 2009 c 535 s 1112 are each amended to
11 read as follows:

12 For purposes of construing those provisions of the streamlined
13 sales and use tax agreement that have been incorporated into this
14 title, and unless the context requires otherwise, the terms "product"
15 and "products" refer to tangible personal property, digital goods,
16 digital codes, digital automated services, other services, extended
17 warranties, and anything else that can be sold or used.

18
19 **Sec. 4.** RCW 82.32.026 and 2007 c 6 s 201 are each amended to
20 read as follows:

21 (1) A seller, by written agreement, may appoint a person to
22 represent the seller as its agent. The seller's agent has authority
23 to register the seller with the department under RCW 82.32.030. An
24 agent may also be a certified service provider, with authority to
25 perform all the seller's sales and use tax functions, except that the
26 seller remains responsible for remitting the tax on its own
27 purchases.

28 (2) The seller or its agent must provide the department with a
29 copy of the written agreement upon request.

30
31 **Sec. 5.** RCW 82.32.030 and 2017 c 323 s 505 are each amended to
32 read as follows:

33 (1) Except as provided in subsections (2) and (3) of this
34 section, if any person engages in any business or performs any act

1 upon which a tax is imposed by the preceding chapters, he or she
2 must, under such rules as the department prescribes, apply for and
3 obtain from the department a registration certificate. Such
4 registration certificate is personal and nontransferable and is valid
5 as long as the taxpayer continues in business and pays the tax
6 accrued to the state. In case business is transacted at two or more
7 separate places by one taxpayer, a separate registration certificate
8 for each place at which business is transacted with the public is
9 required. Each certificate must be numbered and must show the name,
10 residence, and place and character of business of the taxpayer and
11 such other information as the department of revenue deems necessary
12 and must be posted in a conspicuous place at the place of business
13 for which it is issued. Where a place of business of the taxpayer is
14 changed, the taxpayer must return to the department the existing
15 certificate, and a new certificate will be issued for the new place
16 of business. No person required to be registered under this section
17 may engage in any business taxable hereunder without first being so
18 registered. The department, by rule, may provide for the issuance of
19 certificates of registration to temporary places of business.

20 (2) Unless the person is a dealer as defined in RCW 9.41.010,
21 registration under this section is not required if the following
22 conditions are met:

23 (a) A person's value of products, gross proceeds of sales, or
24 gross income of the business, from all business activities taxable
25 under chapter 82.04 RCW, is less than twelve thousand dollars per
26 year;

27 (b) The person's gross income of the business from all activities
28 taxable under chapter 82.16 RCW is less than twelve thousand dollars
29 per year;

30 (c) The person is not required to collect or pay to the
31 department of revenue any other tax or fee that the department is
32 authorized to collect; and

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1 (d) The person is not otherwise required to obtain a license
2 subject to the business license application procedure provided in
3 chapter 19.02 RCW.

4 (3) All persons who agree to collect and remit sales and use tax
5 to the department under the agreement must register through the
6 central registration system authorized under the agreement. Persons
7 required to register under subsection (1) of this section are not
8 relieved of that requirement because of registration under this
9 subsection (3).

10 (4) Persons registered under subsection (3) of this section who
11 are not required to register under subsection (1) of this section and
12 who are not otherwise subject to the requirements of chapter 19.02
13 RCW are not subject to the fees imposed by the department under the
14 authority of RCW 19.02.075.

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16 **Sec. 6.** RCW 82.32.033 and 2007 c 111 s 105 are each amended to
17 read as follows:

18 (1) A promoter of a special event within the state of Washington
19 shall not permit a vendor to make or solicit retail sales of tangible
20 personal property or services at the special event unless the
21 promoter makes a good faith effort to obtain verification that the
22 vendor has obtained a certificate of registration from the
23 department.

24 (2) A promoter of a special event shall:

25 (a) Keep, in addition to the records required under RCW
26 82.32.070, a record of the dates and place of each special event, and
27 the name, address, and registration certificate number of each vendor
28 permitted to make or solicit retail sales of tangible personal
29 property or services at the special event. The record of the date and
30 place of a special event, and the name, address, and registration
31 certificate number of each vendor at the event shall be preserved for
32 a period of one year from the date of a special event; and

33 (b) Provide to the department, within twenty days of receipt of a
34 written request from the department, a list of vendors permitted to

1 make or solicit retail sales of tangible personal property or
2 services. The list shall be in a form and contain such information as
3 the department may require, and shall include the date and place of
4 the event, and the name, address, and registration certificate number
5 of each vendor.

6 (3) If a promoter fails to make a good faith effort to comply
7 with the provisions of this section, the promoter is liable for the
8 penalties provided in this subsection (3).

9 (a) If a promoter fails to make a good faith effort to comply
10 with the provisions of subsection (1) of this section, the department
11 shall impose a penalty of one hundred dollars for each vendor
12 permitted to make or solicit retail sales of tangible personal
13 property or services at the special event.

14 (b) If a promoter fails to make a good faith effort to comply
15 with the provisions of subsection (2)(b) of this section, the
16 department shall impose a penalty of:

17 (i) Two hundred fifty dollars if the information requested is not
18 received by the department within twenty days of the department's
19 written request; and

20 (ii) One hundred dollars for each vendor for whom the information
21 as required by subsection (2)(b) of this section is not provided to
22 the department.

23 (4) The aggregate of penalties imposed under subsection (3) of
24 this section may not exceed two thousand five hundred dollars for a
25 special event if the promoter has not previously been penalized under
26 this section. Under no circumstances is a promoter liable for sales
27 tax or business and occupation tax not remitted to the department by
28 a vendor at a special event.

29 (5) The department shall notify a promoter by mail, or
30 electronically as provided in RCW 82.32.135, of any penalty imposed
31 under this section, and the penalty shall be due within thirty days
32 from the date of the notice. If any penalty imposed under this
33 section is not received by the department by the due date, there
34 shall be assessed interest on the unpaid amount beginning the day

1 following the due date until the penalty is paid in full. The rate of
2 interest shall be computed on a daily basis on the amount of
3 outstanding penalty at the rate as computed under RCW 82.32.050(2).
4 The rate computed shall be adjusted annually in the same manner as
5 provided in RCW 82.32.050(1)(c).

6 (6) For purposes of this section:

7 (a) "Promoter" means a person who organizes, operates, or
8 sponsors a special event and who contracts with vendors for
9 participation in the special event.

10 (b) "Special event" means an entertainment, amusement,
11 recreational, educational, or marketing event, whether held on a
12 regular or irregular basis, at which more than one vendor makes or
13 solicits retail sales of tangible personal property or services. The
14 term includes, but is not limited to: Auto shows, recreational
15 vehicle shows, boat shows, home shows, garden shows, hunting and
16 fishing shows, stamp shows, comic book shows, sports memorabilia
17 shows, craft shows, art shows, antique shows, flea markets,
18 exhibitions, festivals, concerts, swap meets, bazaars, carnivals,
19 athletic contests, circuses, fairs, or other similar activities.
20 "Special event" does not include an event that is organized for the
21 exclusive benefit of any nonprofit organization as defined in RCW
22 82.04.3651. An event is organized for the exclusive benefit of a
23 nonprofit organization if all of the gross proceeds of retail sales
24 of all vendors at the event inure to the benefit of the nonprofit
25 organization on whose behalf the event is being held. "Special event"
26 does not include athletic contests that involve competition between
27 teams, when such competition consists of more than five contests in a
28 calendar year by at least one team at the same facility or site.

29 (c) "Vendor" means a person who, at a special event, makes or
30 solicits retail sales of tangible personal property or services.

31 (7) "Good faith effort to comply" and "good faith effort to
32 obtain" may be shown by, but is not limited to, circumstances where a
33 promoter:

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1 (a) Includes a statement on all written contracts with its
2 vendors that a valid registration certificate number issued by the
3 department of revenue is required for participation in the special
4 event and requires vendors to indicate their registration certificate
5 number on these contracts; and

6 (b) Provides the department with a list of vendors and their
7 associated registration certificate numbers as provided in subsection
8 (2)(b) of this section.

9 (8) This section does not apply to:

10 (a) A special event whose promoter does not charge more than two
11 hundred dollars for a vendor to participate in a special event;

12 (b) A special event whose promoter charges a percentage of sales
13 instead of, or in addition to, a flat charge for a vendor to
14 participate in a special event if the promoter, in good faith,
15 believes that no vendor will pay more than two hundred dollars to
16 participate in the special event; or

17 (c) A person who does not organize, operate, or sponsor a special
18 event, but only provides a venue, supplies, furnishings, fixtures,
19 equipment, or services to a promoter of a special event.

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21 **Sec. 7.** RCW 82.32.045 and 2023 c 374 s 12 are each amended to
22 read as follows:

23 (1) Except as otherwise provided in this chapter and subsection
24 (6) of this section, payments of the taxes imposed under chapters
25 82.04, 82.08, 82.12, 82.14, 82.16, and 82.27 RCW, along with reports
26 and returns on forms prescribed by the department, are due monthly
27 within 25 days after the end of the month in which the taxable
28 activities occur.

29 (2) The department of revenue may relieve any taxpayer or class
30 of taxpayers from the obligation of remitting monthly and may require
31 the return to cover other longer reporting periods, but in no event
32 may returns be filed for a period greater than one year. Except as
33 provided in subsection (3) of this section, for these taxpayers, tax
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1 payments are due on or before the last day of the month next
2 succeeding the end of the period covered by the return.

3 (3) For annual filers, tax payments, along with reports and
4 returns on forms prescribed by the department, are due on or before
5 April 15th of the year immediately following the end of the period
6 covered by the return.

7 (4) The department of revenue may also require verified annual
8 returns from any taxpayer, setting forth such additional information
9 as it may deem necessary to correctly determine tax liability.

10 (5) Notwithstanding subsections (1) and (2) of this section, the
11 department may relieve any person of the requirement to file returns
12 if the following conditions are met:

13 (a) The person's value of products, gross proceeds of sales, or
14 gross income of the business, from all business activities taxable
15 under chapter 82.04 RCW, is less than \$125,000 per year;

16 (b) The person's gross income of the business from all activities
17 taxable under chapter 82.16 RCW is less than \$24,000 per year; and

18 (c) The person is not required to collect or pay to the
19 department of revenue any other tax or fee which the department is
20 authorized to collect.

21 (6)(a) Taxes imposed under chapter 82.08 or 82.12 RCW on taxable
22 events that occur beginning January 1, 2019, through June 30, 2019,
23 and payable by a consumer directly to the department are due, on
24 returns prescribed by the department, by July 25, 2019.

25 (b) This subsection (6) does not apply to the reporting and
26 payment of taxes imposed under chapters 82.08 and 82.12 RCW:

27 (i) On the retail sale or use of motor vehicles, vessels, or
28 aircraft; or

29 (ii) By consumers who are engaged in business, unless the
30 department has relieved the consumer of the requirement to file
31 returns pursuant to subsection (5) of this section.

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33 **Sec. 8.** RCW 82.32.050 and 2022 c 282 s 2 are each amended to
34 read as follows:

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

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

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

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

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

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

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

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

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

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

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

31 (4) No assessment or correction of an assessment for additional
32 taxes, penalties, or interest due may be made by the department more
33 than four years after the close of the tax year, except (a) against a
34 taxpayer who has not registered as required by this chapter, (b) upon

1 a showing of fraud or of misrepresentation of a material fact by the
2 taxpayer, or (c) where a taxpayer has executed a written waiver of
3 such limitation. The execution of a written waiver shall also extend
4 the period for making a refund or credit as provided in RCW
5 82.32.060(2).

6 (5) For the purposes of this section, the following definitions
7 apply:

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

11 (b) "Return" means any document a person is required by the state
12 of Washington to file to satisfy or establish a tax or fee obligation
13 that is administered or collected by the department and that has a
14 statutorily defined due date. "Return" also means an application for
15 refund under RCW 82.08.0206.

16

17 **Sec. 9.** RCW 82.32.052 and 2010 2nd sp.s. c 2 s 1 are each
18 amended to read as follows:

19 (1) Except as otherwise provided in subsections (4) and (5) of
20 this section, the department must waive all penalties and interest
21 otherwise due under this chapter and that are unpaid as of February
22 1, 2011, if all of the following circumstances are met:

23 (a) The penalties and interest are imposed with respect to: (i)
24 State business and occupation tax, state public utility tax, state or
25 local sales tax, or state or local use tax; and (ii) tax liability
26 that first became due to the department before February 1, 2011,
27 which includes taxes billed to the taxpayer, or disclosed by the
28 taxpayer to the department, on or after February 1, 2011, but that
29 were required by this chapter to have been reported and paid by the
30 taxpayer before February 1, 2011;

31 (b) The taxpayer must file with the department no later than
32 April 18, 2011: (i) All outstanding tax returns for the taxes
33 specified in (a)(i) of this subsection (1); and (ii) any amended
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1 returns covering tax liabilities with respect to which a penalty and
2 interest waiver under this section is requested;

3 (c) Before May 1, 2011, the taxpayer must remit full payment to
4 the department of the balance due on all tax liabilities for which a
5 penalty and interest waiver under this section is requested. If a
6 waiver is requested for penalties or interest associated with an
7 invoice that has been billed to the taxpayer, the taxpayer must remit
8 full payment to the department of the entire balance due on that
9 invoice other than any penalty and interest eligible for waiver under
10 this section, even if the invoice includes taxes not specified in (a)
11 (i) of this subsection (1). If the invoice is a tax warrant, the
12 taxpayer must also remit full payment to the department of any filing
13 or other fees added to the tax warrant, including the filing fees
14 provided in RCW 36.18.012 (2) and (10), the fee imposed in RCW
15 36.18.016(4), and the surcharge imposed in RCW 40.14.027;

16 (d) The taxpayer must file and pay in full by the due date all
17 tax returns that become due after January 31, 2011, and before May 1,
18 2011, for all taxes administered by the department under this
19 chapter;

20 (e) No later than April 18, 2011, the department must receive a
21 completed application for penalty and interest waiver under this
22 section in a form and manner prescribed by the department;

23 (f) The taxpayer must never have had an evasion penalty assessed
24 against the taxpayer by the department under RCW 82.32.090 or a
25 penalty assessed against the taxpayer by the department under RCW
26 82.32.291 for misusing a reseller permit or resale certificate; and

27 (g) The taxpayer must never have been a defendant in a criminal
28 prosecution related to an offense involving the failure to collect or
29 pay the proper amount of any tax administered by the department under
30 this chapter.

31 (2) Taxpayers receiving penalty or interest relief under this
32 section may not seek a refund, or otherwise challenge the amount, of
33 any tax liability paid as required by subsection (1)(c) of this
34 section. This subsection (2) applies to refund requests or appeals

1 filed directly with the department and to proceedings brought in any
2 court or administrative tribunal.

3 (3) All tax liability reported and paid as required in subsection
4 (1)(b), (c), and (d) of this section is subject to verification by
5 the department as provided in RCW 82.32.050. This section does not
6 preclude the assessment of taxes, penalties, and interest with
7 respect to any amounts determined by the department to have been
8 underpaid for any tax period for which the taxpayer previously
9 received penalty or interest relief under this section.

10 (4) This section does not authorize the department to waive the
11 evasion penalty currently authorized by RCW 82.32.090(7) or the
12 penalty currently authorized by RCW 82.32.291 for misusing a reseller
13 permit or resale certificate.

14 (5) If taxpayers are current for tax returns due as of November
15 25, 2010, tax liability that accrues after that date would not
16 qualify under this section.

17 (6) Nothing in this section may be construed as requiring a
18 taxpayer to have first paid any penalty or interest for which a
19 waiver is sought under this section.

20 (7) Solely for purposes of determining whether a taxpayer
21 qualifies for a waiver of penalties or interest under this section
22 with respect to a balance owing as of February 1, 2011, on any
23 invoice issued by the department, any payments made to the department
24 on that taxpayer's account before May 1, 2011, are deemed to have
25 been applied first to any of the taxes specified in subsection (1)(a)
26 (i) of this section, then to any other taxes, and then to penalties
27 or interest, if such payments were applied either:

28 (a) To that invoice; or

29 (b) Against any liability reflected in that invoice before that
30 invoice was issued by the department.

31 (8) A taxpayer in a bankruptcy proceeding is ineligible for
32 relief under this section to the extent that the payment of any tax
33 debt by the taxpayer to the department as required under this section
34 violates the federal bankruptcy code.

1 **Sec. 10.** RCW 82.32.055 and 2008 c 184 s 1 are each amended to
2 read as follows:

3 (1) Subject to the requirements in subsections (2) through (4) of
4 this section, the department shall waive or cancel interest and
5 penalties imposed under this chapter if the interest and penalties
6 are:

7 (a) Imposed during any period of armed conflict; and

8 (b) Imposed on a taxpayer where a majority owner of the taxpayer
9 is an individual who is on active duty in the military, and the
10 individual is participating in a conflict and assigned to a duty
11 station outside the territorial boundaries of the United States.

12 (2) To receive a waiver or cancellation of interest and penalties
13 under this section, the taxpayer must submit to the department a copy
14 of the individual's deployment orders for deployment outside the
15 territorial boundaries of the United States.

16 (3) The department may not waive or cancel interest and penalties
17 under this section if the gross income of the business exceeded one
18 million dollars in the calendar year prior to the individual's
19 initial deployment outside the United States for the armed conflict.
20 The department may not waive or cancel interest and penalties under
21 this section for a taxpayer for more than twenty-four months.

22 (4) During any period of armed conflict, for any notice sent to a
23 taxpayer that requires a payment of interest, penalties, or both, the
24 notice must clearly indicate on or in the notice that interest and
25 penalties may be waived under this section for qualifying taxpayers.

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27 **Sec. 11.** RCW 82.32.057 and 2022 c 282 s 1 are each amended to
28 read as follows:

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

34

1 **Sec. 12.** RCW 82.32.060 and 2020 c 139 s 61 are each amended to
2 read as follows:

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

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

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

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

1 transfer if the department has the necessary account information to
2 facilitate a refund by electronic funds transfer.

3 (4) Any judgment for which a recovery is granted by any court of
4 competent jurisdiction, not appealed from, for tax, penalties, and
5 interest which were paid by the taxpayer, and costs, in a suit by any
6 taxpayer must be paid in the same manner, as provided in subsection
7 (3) of this section, upon the filing with the department of a
8 certified copy of the order or judgment of the court.

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

18 (b) For refunds or credits of amounts paid or other recovery
19 allowed to a taxpayer after December 31, 1991, the rate of interest
20 must be the rate as computed for assessments under RCW 82.32.050(2)
21 less one percent. This rate of interest applies for all interest
22 allowed through December 31, 1998. Interest allowed after December
23 31, 1998, must be computed at the rate as computed under RCW
24 82.32.050(2). The rate so computed must be adjusted on the first day
25 of January of each year for use in computing interest for that
26 calendar year.

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

29 (a) If all overpayments for each calendar year and all reporting
30 periods ending with the final month included in a notice or refund
31 were made on or before the due date of the final return for each
32 calendar year or the final reporting period included in the notice or
33 refund:

34

1 (i) Interest must be computed from January 31st following each
2 calendar year included in a notice or refund;
3 (ii) Interest must be computed from the last day of the month
4 following the final month included in a notice or refund; or
5 (iii) For interest associated with annual tax reporting periods
6 having a due date as prescribed in RCW 82.32.045(3), interest must be
7 computed from the last day of April following each such annual
8 reporting period included in a notice or refund.

9 (b) If the taxpayer has not made all overpayments for each
10 calendar year and all reporting periods ending with the final month
11 included in a notice or refund on or before the dates specified by
12 RCW 82.32.045 for the final return for each calendar year or the
13 final month included in the notice or refund, interest must be
14 computed from the last day of the month following the date on which
15 payment in full of the liabilities was made for each calendar year
16 included in a notice or refund, and the last day of the month
17 following the date on which payment in full of the liabilities was
18 made if the final month included in a notice or refund is not the end
19 of a calendar year.

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

26

27 **Sec. 13.** RCW 82.32.062 and 2020 c 139 s 38 are each amended to
28 read as follows:

29 (1) In addition to the procedure set forth in RCW 82.32.060 and
30 as an exception to the four-year period explicitly set forth in RCW
31 82.32.060, an offset for a tax that has been paid in excess of that
32 properly due may be taken under the following conditions:

33 (a) The tax paid in excess of that properly due was sales or use
34 tax paid on property purchased for the purpose of leasing;

1 (b) The taxpayer was at the time of purchase entitled to purchase
2 the property at wholesale under RCW 82.04.060; and

3 (c) The taxpayer substantiates that the taxpayer paid sales or
4 use tax on the purchase of the property and that there was no
5 intervening use of the property by the taxpayer.

6 (2) The offset under this section is applied to and reduced by
7 the amount of retail sales tax otherwise due from the beginning of
8 lease of the property until the offset is extinguished.

9

10 **Sec. 14.** RCW 82.32.065 and 1987 c 344 s 16 are each amended to
11 read as follows:

12 If a manufacturer makes a refund of sales tax to a consumer upon
13 return of a new motor vehicle under chapter 19.118 RCW, the
14 department shall credit or refund to the manufacturer the amount of
15 the tax refunded, upon receipt of documentation as required by the
16 department.

17

18 **Sec. 15.** RCW 82.32.070 and 2015 c 86 s 310 are each amended to
19 read as follows:

20 (1) Every taxpayer liable for any tax collected by the department
21 must keep and preserve, for a period of five years, suitable records
22 as may be necessary to determine the amount of any tax for which the
23 taxpayer may be liable. Such records must include copies of all of
24 the taxpayer's federal income tax and state tax returns and reports.
25 All of the taxpayer's books, records, and invoices must be open for
26 examination at any time by the department of revenue. In the case of
27 an out-of-state taxpayer that does not keep the necessary books and
28 records within this state, it is sufficient if the taxpayer produces
29 within the state such books and records as are required by the
30 department of revenue, or permits the examination by an agent
31 authorized or designated by the department of revenue at the place
32 where such books and records are kept. Any taxpayer who fails to
33 comply with the requirements of this section is forever barred from
34 questioning, in any court action or proceedings, the correctness of

1 any assessment of taxes made by the department of revenue based upon
2 any period for which such books, records, and invoices have not been
3 so kept and preserved.

4 (2) A person liable for any fee or tax imposed by chapters 82.04
5 through 82.27 RCW who contracts with another person or entity for
6 work subject to chapter 18.27 or 19.28 RCW must obtain and preserve a
7 record of the unified business identifier account number for the
8 person or entity performing the work. Failure to obtain or maintain
9 the record is subject to RCW 39.06.010 and to a penalty determined by
10 the director, but not to exceed two hundred fifty dollars. The
11 department must notify the taxpayer and collect the penalty in the
12 same manner as penalties under RCW 82.32.100.

13

14 **Sec. 16.** RCW 82.32.080 and 2015 c 86 s 311 are each amended to
15 read as follows:

16 (1) When authorized by the department, payment of the tax may be
17 made by uncertified check under such rules as the department
18 prescribes, but, if a check so received is not paid by the bank on
19 which it is drawn, the taxpayer, by whom such check is tendered, will
20 remain liable for payment of the tax and for all legal penalties and
21 interest, the same as if such check had not been tendered.

22 (2)(a) Except as otherwise provided in this subsection, payment
23 of the tax must be made by electronic funds transfer, as defined in
24 RCW 82.32.085. As an alternative to electronic funds transfer, the
25 department may authorize other forms of electronic payment, such as
26 payment by credit card. All taxes administered by this chapter are
27 subject to this requirement, except that the department may exclude
28 any taxes not reported on the combined excise tax return or any
29 successor return from the electronic payment requirement in this
30 subsection.

31 (b) The department may waive the electronic payment requirement
32 in this subsection for any taxpayer or class of taxpayers, for good
33 cause or for whom the department has assigned a reporting frequency
34 that is less than quarterly. In the discretion of the department, a

1 waiver under this subsection may be made temporary or permanent, and
2 may be made on the department's own motion.

3 (c) The department is authorized to accept payment of taxes by
4 electronic funds transfer or other acceptable forms of electronic
5 payment from taxpayers that are not subject to the mandatory
6 electronic payment requirements in this subsection.

7 (3)(a) Except as otherwise provided in this subsection, returns
8 must be filed electronically using the department's online tax filing
9 service or other method of electronic reporting as the department may
10 authorize.

11 (b) The department may waive the electronic filing requirement in
12 this subsection for any taxpayer or class of taxpayers, for good
13 cause or for whom the department has assigned a reporting frequency
14 that is less than quarterly. In the discretion of the department, a
15 waiver under this subsection may be made temporary or permanent, and
16 may be made on the department's own motion.

17 (c) The department is authorized to allow electronic filing of
18 returns from taxpayers that are not subject to the mandatory
19 electronic filing requirements in this subsection.

20 (4)(a)(i) The department, for good cause shown, may extend the
21 time for making and filing any return, and may grant such reasonable
22 additional time within which to make and file returns as it may deem
23 proper, but any permanent extension granting the taxpayer a reporting
24 date without penalty more than ten days beyond the due date, and any
25 extension in excess of thirty days must be conditional on deposit
26 with the department of an amount to be determined by the department
27 which is approximately equal to the estimated tax liability for the
28 reporting period or periods for which the extension is granted. In
29 the case of a permanent extension or a temporary extension of more
30 than thirty days the deposit must be deposited within the state
31 treasury with other tax funds and a credit recorded to the taxpayer's
32 account which may be applied to taxpayer's liability upon
33 cancellation of the permanent extension or upon reporting of the tax
34

1 liability where an extension of more than thirty days has been
2 granted.

3 (ii) The department must review the requirement for deposit at
4 least annually and may require a change in the amount of the deposit
5 required when it believes that such amount does not approximate the
6 tax liability for the reporting period or periods for which the
7 extension is granted.

8 (b) 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 time for making or filing
11 any return as the department deems proper. The department may not
12 require any deposit as a condition for granting an extension under
13 this subsection (4)(b).

14 (5)(a) The department must keep full and accurate records of all
15 funds received and disbursed by it. Subject to the provisions of RCW
16 82.32.105, 82.32.052, and 82.32.350, the department must apply the
17 payment of the taxpayer in the following order, without regard to any
18 direction of the taxpayer: (i) Interest; (ii) penalties; (iii) fees
19 that are not within the definition of tax in RCW 82.32.020; (iv)
20 other nontax amounts; (v) taxes, except spirits taxes; and (vi)
21 spirits taxes.

22 (b) For purposes of this subsection, "spirits taxes" has the same
23 meaning as in RCW 82.08.155.

24 (6) The department may refuse to accept any return that is not
25 accompanied by a remittance of the tax shown to be due thereon or
26 that is not filed electronically as required in this section. When
27 such return is not accepted, the taxpayer is deemed to have failed or
28 refused to file a return and is subject to the procedures provided in
29 RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The
30 above authority to refuse to accept a return may not apply when a
31 return is timely filed electronically and a timely payment has been
32 made by electronic funds transfer or other form of electronic payment
33 as authorized by the department.

34

1 (7) Except for returns and remittances required to be transmitted
2 to the department electronically under this section and except as
3 otherwise provided in this chapter, a return or remittance that is
4 transmitted to the department by United States mail is deemed filed
5 or received on the date shown by the post office cancellation mark
6 stamped upon the envelope containing it. A return or remittance that
7 is transmitted to the department electronically is deemed filed or
8 received according to procedures set forth by the department.

9 (8)(a) For purposes of subsections (2) and (3) of this section,
10 "good cause" means the inability of a taxpayer to comply with the
11 requirements of subsection (2) or (3) of this section because:

12 (i) The taxpayer does not have the equipment or software
13 necessary to enable the taxpayer to comply with subsection (2) or (3)
14 of this section;

15 (ii) The equipment or software necessary to enable the taxpayer
16 to comply with subsection (2) or (3) of this section is not
17 functioning properly;

18 (iii) The taxpayer does not have access to the internet using the
19 taxpayer's own equipment;

20 (iv) The taxpayer does not have a bank account or a credit card;

21 (v) The taxpayer's bank is unable to send or receive electronic
22 funds transfer transactions; or

23 (vi) Some other circumstance or condition exists that, in the
24 department's judgment, prevents the taxpayer from complying with the
25 requirements of subsection (2) or (3) of this section.

26 (b) "Good cause" also includes any circumstance that, in the
27 department's judgment, supports the efficient or effective
28 administration of the tax laws of this state, including providing
29 relief from the requirements of subsection (2) or (3) of this section
30 to any taxpayer that is voluntarily collecting and remitting this
31 state's sales or use taxes on sales to Washington customers but has
32 no legal requirement to be registered with the department.

33

34

1 **Sec. 17.** RCW 82.32.085 and 2011 c 24 s 2 are each amended to
2 read as follows:

3 (1) "Electronic funds transfer" means any transfer of funds,
4 other than a transaction originated or accomplished by conventional
5 check, drafts, or similar paper instrument, which is initiated
6 through an electronic terminal, telephonic instrument, or computer or
7 magnetic tape so as to order, instruct, or authorize a financial
8 institution to debit or credit a checking or other deposit account.
9 "Electronic funds transfer" includes payments made by electronic
10 check (e-check).

11 (2)(a) An electronic funds transfer using the automated
12 clearinghouse credit method must be completed so that the state
13 receives collectible funds on or before the next banking day
14 following the due date.

15 (b) A remittance made using the automated clearinghouse debit
16 method or any other method of electronic payment authorized by the
17 department will be deemed to be received on the due date if the
18 electronic funds transfer or other electronic payment is initiated on
19 or before 11:59 p.m. pacific time on the due date with an effective
20 payment date on or before the next banking day following the due
21 date.

22 (3) The department must adopt rules necessary to implement the
23 provisions of RCW 82.32.080 and this section. The rules must include
24 but are not limited to: (a) Coordinating the filing of tax returns
25 with payment by electronic funds transfer or other form of electronic
26 payment as authorized by the department; (b) form and content of
27 electronic funds transfer; (c) voluntary use of electronic funds
28 transfer with permission of the department for those taxpayers that
29 are not subject to the mandatory electronic payment requirement in
30 RCW 82.32.080; (d) use of commonly accepted means of electronic funds
31 transfer; (e) means of crediting and recording proof of payment; and
32 (f) means of correcting errors in transmission.

33

34

1 **Sec. 18.** RCW 82.32.087 and 2015 c 169 s 11 are each amended to
2 read as follows:

3 (1) The director may grant a direct pay permit to a taxpayer who
4 demonstrates, to the satisfaction of the director, that the taxpayer
5 meets the requirements of this section. The direct pay permit allows
6 the taxpayer to accrue and remit directly to the department use tax
7 on the acquisition of tangible personal property or sales tax on the
8 sale of or charges made for labor and/or services, in accordance with
9 all of the applicable provisions of this title. Any taxpayer that
10 uses a direct pay permit must remit state and local sales or use tax
11 directly to the department. The agreement by the purchaser to remit
12 tax directly to the department, rather than pay sales or use tax to
13 the seller, relieves the seller of the obligation to collect sales or
14 use tax and requires the buyer to pay use tax on the tangible
15 personal property and sales tax on the sale of or charges made for
16 labor and/or services.

17 (2)(a) A taxpayer may apply for a permit under this section if:
18 (i) The taxpayer's cumulative tax liability is reasonably expected to
19 be two hundred forty thousand dollars or more in the current calendar
20 year; or (ii) the taxpayer makes purchases subject to the taxes
21 imposed under chapter 82.08 or 82.12 RCW in excess of ten million
22 dollars per calendar year. For the purposes of this section, "tax
23 liability" means the amount required to be remitted to the department
24 for taxes administered under this chapter, except for the taxes
25 imposed or authorized by chapters 82.14A, 82.14B, 82.24, 82.27,
26 82.29A, and 84.33 RCW.

27 (b) Application for a permit must be made in writing to the
28 director in a form and manner prescribed by the department. A
29 taxpayer who transacts business in two or more locations may submit
30 one application to cover the multiple locations.

31 (c) The director must review a direct pay permit application in a
32 timely manner and must notify the applicant, in writing, of the
33 approval or denial of the application. The department must approve or
34 deny an application based on the applicant's ability to comply with

1 local government use tax coding capabilities and responsibilities;
2 requirements for vendor notification; recordkeeping obligations;
3 electronic data capabilities; and tax reporting procedures.
4 Additionally, an application may be denied if the director determines
5 that denial would be in the best interest of collecting taxes due
6 under this title. The department must provide a direct pay permit to
7 an approved applicant with the notice of approval. The direct pay
8 permit must clearly state that the holder is solely responsible for
9 the accrual and payment of the tax imposed under chapters 82.08 and
10 82.12 RCW and that the seller is relieved of liability to collect tax
11 imposed under chapters 82.08 and 82.12 RCW on all sales to the direct
12 pay permit holder. The taxpayer may petition the director for
13 reconsideration of a denial.

14 (d) A taxpayer who uses a direct pay permit must continue to
15 maintain records that are necessary to a determination of the tax
16 liability in accordance with this title. A direct pay permit is not
17 transferable and the use of a direct pay permit may not be assigned
18 to a third party.

19 (3) Taxes for which the direct pay permit is used are due and
20 payable on the tax return for the reporting period in which the
21 taxpayer (a) receives the tangible personal property purchased or in
22 which the labor and/or services are performed or (b) receives an
23 invoice for such property or such labor and/or services, whichever
24 period is earlier.

25 (4) The holder of a direct pay permit must furnish a copy of the
26 direct pay permit to each vendor with whom the taxpayer has opted to
27 use a direct pay permit. Sellers who make sales upon which the sales
28 or use tax is not collected by reason of the provisions of this
29 section, in addition to existing requirements under this title, must
30 maintain a copy of the direct pay permit and any such records or
31 information as the department may specify.

32 (5) A direct pay permit is subject to revocation by the director
33 at any time the department determines that the taxpayer has violated
34 any provision of this section or that revocation would be in the best

1 interests of collecting the taxes due under this title. The notice of
2 revocation must be in writing and is effective either as of the end
3 of the taxpayer's next normal reporting period or a date deemed
4 appropriate by the director and identified in the revocation notice.
5 The taxpayer may petition the director for reconsideration of a
6 revocation and reinstatement of the permit.

7 (6) Any taxpayer who chooses to no longer use a direct pay permit
8 or whose permit is revoked by the department, must return the permit
9 to the department and immediately make a good faith effort to notify
10 all vendors to whom the permit was given, advising them that the
11 permit is no longer valid.

12 (7) Except as provided in this subsection, the direct pay permit
13 may be used for any purchase of tangible personal property and any
14 retail sale under RCW 82.04.050. The direct pay permit may not be
15 used for:

16 (a) Purchases of meals or beverages;

17 (b) Purchases of motor vehicles, trailers, boats, airplanes, and
18 other property subject to requirements for title transactions by the
19 department of licensing;

20 (c) Purchases for which a reseller permit or other documentation
21 authorized under RCW 82.04.470 may be used;

22 (d) Purchases that meet the definitions of RCW 82.04.050 (2) (e)
23 and (f), (3) (a) through (c), (e), (f), and (g), (5), and (15); or

24 (e) Other activities subject to tax under chapter 82.08 or 82.12
25 RCW that the department by rule designates, consistent with the
26 purposes of this section, as activities for which a direct pay permit
27 is not appropriate and may not be used.

28

29 **Sec. 19.** RCW 82.32.090 and 2015 3rd sp.s. c 5 s 401 are each
30 amended to read as follows:

31 (1) If payment of any tax due on a return to be filed by a
32 taxpayer is not received by the department of revenue by the due
33 date, there is assessed a penalty of nine percent of the amount of
34 the tax; and if the tax is not received on or before the last day of

1 the month following the due date, there is assessed a total penalty
2 of nineteen percent of the amount of the tax under this subsection;
3 and if the tax is not received on or before the last day of the
4 second month following the due date, there is assessed a total
5 penalty of twenty-nine percent of the amount of the tax under this
6 subsection. No penalty so added may be less than five dollars.

7 (2) If the department of revenue determines that any tax has been
8 substantially underpaid, there is assessed a penalty of five percent
9 of the amount of the tax determined by the department to be due. If
10 payment of any tax determined by the department to be due is not
11 received by the department by the due date specified in the notice,
12 or any extension thereof, there is assessed a total penalty of
13 fifteen percent of the amount of the tax under this subsection; and
14 if payment of any tax determined by the department to be due is not
15 received on or before the thirtieth day following the due date
16 specified in the notice of tax due, or any extension thereof, there
17 is assessed a total penalty of twenty-five percent of the amount of
18 the tax under this subsection. No penalty so added may be less than
19 five dollars. As used in this section, "substantially underpaid"
20 means that the taxpayer has paid less than eighty percent of the
21 amount of tax determined by the department to be due for all of the
22 types of taxes included in, and for the entire period of time covered
23 by, the department's examination, and the amount of underpayment is
24 at least one thousand dollars.

25 (3) If a warrant is issued by the department of revenue for the
26 collection of taxes, increases, and penalties, there is added thereto
27 a penalty of ten percent of the amount of the tax, but not less than
28 ten dollars.

29 (4) If the department finds that a person has engaged in any
30 business or performed any act upon which a tax is imposed under this
31 title and that person has not obtained from the department a
32 registration certificate as required by RCW 82.32.030, the department
33 must impose a penalty of five percent of the amount of tax due from
34 that person for the period that the person was not registered as

1 required by RCW 82.32.030. The department may not impose the penalty
2 under this subsection (4) if a person who has engaged in business
3 taxable under this title without first having registered as required
4 by RCW 82.32.030, prior to any notification by the department of the
5 need to register, obtains a registration certificate from the
6 department.

7 (5) If the department finds that a taxpayer has disregarded
8 specific written instructions as to reporting or tax liabilities, or
9 willfully disregarded the requirement to file returns or remit
10 payment electronically, as provided by RCW 82.32.080, the department
11 must add a penalty of ten percent of the amount of the tax that
12 should have been reported and/or paid electronically or the
13 additional tax found due if there is a deficiency because of the
14 failure to follow the instructions. A taxpayer disregards specific
15 written instructions when the department has informed the taxpayer in
16 writing of the taxpayer's tax obligations and the taxpayer fails to
17 act in accordance with those instructions unless, in the case of a
18 deficiency, the department has not issued final instructions because
19 the matter is under appeal pursuant to this chapter or departmental
20 regulations. The department may not assess the penalty under this
21 section upon any taxpayer who has made a good faith effort to comply
22 with the specific written instructions provided by the department to
23 that taxpayer. A taxpayer will be considered to have made a good
24 faith effort to comply with specific written instructions to file
25 returns and/or remit taxes electronically only if the taxpayer can
26 show good cause, as defined in RCW 82.32.080, for the failure to
27 comply with such instructions. A taxpayer will be considered to have
28 willfully disregarded the requirement to file returns or remit
29 payment electronically if the department has mailed or otherwise
30 delivered the specific written instructions to the taxpayer on at
31 least two occasions. Specific written instructions may be given as a
32 part of a tax assessment, audit, determination, closing agreement, or
33 other written communication, provided that such specific written
34 instructions apply only to the taxpayer addressed or referenced on

1 such communication. Any specific written instructions by the
2 department must be clearly identified as such and must inform the
3 taxpayer that failure to follow the instructions may subject the
4 taxpayer to the penalties imposed by this subsection. If the
5 department determines that it is necessary to provide specific
6 written instructions to a taxpayer that does not comply with the
7 requirement to file returns or remit payment electronically as
8 provided in RCW 82.32.080, the specific written instructions must
9 provide the taxpayer with a minimum of forty-five days to come into
10 compliance with its electronic filing and/or payment obligations
11 before the department may impose the penalty authorized in this
12 subsection.

13 (6) If the department finds that all or any part of a deficiency
14 resulted from engaging in a disregarded transaction, as described in
15 RCW 82.32.655(3), the department must assess a penalty of thirty-five
16 percent of the additional tax found to be due as a result of engaging
17 in a transaction disregarded by the department under RCW
18 82.32.655(2). The penalty provided in this subsection may be assessed
19 together with any other applicable penalties provided in this section
20 on the same tax found to be due, except for the evasion penalty
21 provided in subsection (7) of this section. The department may not
22 assess the penalty under this subsection if, before the department
23 discovers the taxpayer's use of a transaction described under RCW
24 82.32.655(3), the taxpayer discloses its participation in the
25 transaction to the department.

26 (7) If the department finds that all or any part of the
27 deficiency resulted from an intent to evade the tax payable
28 hereunder, a further penalty of fifty percent of the additional tax
29 found to be due must be added.

30 (8) The penalties imposed under subsections (1) through (4) of
31 this section can each be imposed on the same tax found to be due.
32 This subsection does not prohibit or restrict the application of
33 other penalties authorized by law.

34

1 (9) The department may not impose the evasion penalty in
2 combination with the penalty for disregarding specific written
3 instructions or the penalty provided in subsection (6) of this
4 section on the same tax found to be due.

5 (10) For the purposes of this section, "return" means any
6 document a person is required by the state of Washington to file to
7 satisfy or establish a tax or fee obligation that is administered or
8 collected by the department, and that has a statutorily defined due
9 date.

10

11 **Sec. 20.** RCW 82.32.100 and 2007 c 111 s 107 are each amended to
12 read as follows:

13 (1) If any person fails or refuses to make any return or to make
14 available for examination the records required by this chapter, the
15 department shall proceed, in such manner as it may deem best, to
16 obtain facts and information on which to base its estimate of the
17 tax; and to this end the department may examine the records of any
18 such person as provided in RCW 82.32.110.

19 (2) As soon as the department procures such facts and information
20 as it is able to obtain upon which to base the assessment of any tax
21 payable by any person who has failed or refused to make a return, it
22 shall proceed to determine and assess against such person the tax and
23 any applicable penalties or interest due, but such action shall not
24 deprive such person from appealing the assessment as provided in this
25 chapter. The department shall notify the taxpayer by mail, or
26 electronically as provided in RCW 82.32.135, of the total amount of
27 such tax, penalties, and interest, and the total amount shall become
28 due and shall be paid within thirty days from the date of such
29 notice.

30 (3) No assessment or correction of an assessment may be made by
31 the department more than four years after the close of the tax year,
32 except (a) against a taxpayer who has not registered as required by
33 this chapter, (b) upon a showing of fraud or of misrepresentation of
34 a material fact by the taxpayer, or (c) where a taxpayer has executed

1 a written waiver of such limitation. The execution of a written
2 waiver shall also extend the period for making a refund or credit as
3 provided in RCW 82.32.060(2).

4

5 **Sec. 21.** RCW 82.32.105 and 2023 c 374 s 13 are each amended to
6 read as follows:

7 (1) If the department finds that the payment by a taxpayer of a
8 tax less than that properly due or the failure of a taxpayer to pay
9 any tax by the due date was the result of circumstances beyond the
10 control of the taxpayer, the department must waive or cancel any
11 penalties imposed under this chapter with respect to such tax.

12 (2) The department must waive or cancel the penalty imposed under
13 RCW 82.32.090(1) when the circumstances under which the delinquency
14 occurred do not qualify for waiver or cancellation under subsection
15 (1) of this section if:

16 (a) The taxpayer requests the waiver for a tax return required to
17 be filed under RCW 54.28.040, 82.32.045, 82.14B.061, 82.23B.020,
18 82.29A.050, or 84.33.086; and

19 (b) The taxpayer has timely filed and remitted payment on all tax
20 returns due for that tax program for a period of 24 months
21 immediately preceding the period covered by the return for which the
22 waiver is being requested.

23 (3) The department must waive or cancel interest imposed under
24 this chapter if:

25 (a) The failure to timely pay the tax was the direct result of
26 written instructions given the taxpayer by the department; or

27 (b) The extension of a due date for payment of an assessment of
28 deficiency was not at the request of the taxpayer and was for the
29 sole convenience of the department.

30 (4) The department must adopt rules for the waiver or
31 cancellation of penalties and interest imposed by this chapter.

32

33 **Sec. 22.** RCW 82.32.110 and 1989 c 373 s 27 are each amended to
34 read as follows:

1 The department of revenue or its duly authorized agent may
2 examine any books, papers, records, or other data, or stock of
3 merchandise bearing upon the amount of any tax payable or upon the
4 correctness of any return, or for the purpose of making a return
5 where none has been made, or in order to ascertain whether a return
6 should be made; and may require the attendance of any person at a
7 time and place fixed in a summons served by any sheriff in the same
8 manner as a subpoena is served in a civil case, or served in like
9 manner by an agent of the department of revenue.

10 The persons summoned may be required to testify and produce any
11 books, papers, records, or data required by the department with
12 respect to any tax, or the liability of any person therefor.

13 The director of the department of revenue, or any duly authorized
14 agent thereof, shall have power to administer an oath to the person
15 required to testify; and any person giving false testimony after the
16 administration of such oath shall be guilty of perjury in the first
17 degree.

18 If any person summoned as a witness before the department, or its
19 authorized agent, fails or refuses to obey the summons, or refuses to
20 testify or answer any material questions, or to produce any book,
21 record, paper, or data when required to do so, the person is subject
22 to proceedings for contempt, and the department shall thereupon
23 institute contempt of court proceedings in the superior court of
24 Thurston county or of the county in which such person resides.

25
26 **Sec. 23.** RCW 82.32.117 and 2011 c 174 s 401 are each amended to
27 read as follows:

28 (1) The department or its duly authorized agent may apply for and
29 obtain a superior court order approving and authorizing a subpoena in
30 advance of its issuance. The application may be made in the county
31 where the subpoenaed person resides or is found, or the county where
32 the subpoenaed records or documents are located, or in Thurston
33 county. The application must:

34 (a) State that an order is sought pursuant to this subsection;

1 (b) Adequately specify the records, documents, or testimony; and
2 (c) Declare under oath that an investigation is being conducted
3 for a lawfully authorized purpose related to an investigation within
4 the department's authority and that the subpoenaed documents or
5 testimony are reasonably related to an investigation within the
6 department's authority.

7 (2) Where the application under this subsection is made to the
8 satisfaction of the court, the court must issue an order approving
9 the subpoena. An order under this subsection constitutes authority of
10 law for the agency to subpoena the records or testimony.

11 (3) The department or its duly authorized agent may seek approval
12 and a court may issue an order under this subsection without prior
13 notice to any person, including the person to whom the subpoena is
14 directed and the person who is the subject of an investigation.

15 (4) This section does not preclude the use of other legally
16 authorized means of obtaining records, nor preclude the assertion of
17 any legally recognized privileges.

18 (5) The department may not disclose any return or tax
19 information, as defined in RCW 82.32.330, obtained in response to a
20 subpoena issued under this section, except as authorized in RCW
21 82.32.330.

22 (6) A third party may not be held civilly liable for any harm
23 resulting from that person's compliance with a subpoena issued under
24 the authority of this section.

25 (7) The entire court file of any proceeding instituted under this
26 section must be sealed and is not open to public inspection by any
27 person except upon order of the court as authorized by law.

28

29 **Sec. 24.** RCW 82.32.120 and 2013 c 23 s 323 are each amended to
30 read as follows:

31 All officers empowered by law to administer oaths, the director
32 of the department of revenue, and such officers as he or she may
33 designate shall have the power to administer an oath to any person or
34 to take the acknowledgment of any person with respect to any return

1 or report required by law or the rules and regulations of the
2 department of revenue.

3
4 **Sec. 25.** RCW 82.32.130 and 2007 c 111 s 108 are each amended to
5 read as follows:

6 Notwithstanding any other law, any notice or order required by
7 this title to be mailed to any taxpayer may be provided
8 electronically as provided in RCW 82.32.135, served in the manner
9 prescribed by law for personal service of summons and complaint in
10 the commencement of actions in the superior courts of the state.
11 However if the notice or order is mailed, it shall be addressed to
12 the address of the taxpayer as shown by the records of the
13 department, or, if no such address is shown, to such address as the
14 department is able to ascertain by reasonable effort. Failure of the
15 taxpayer to receive such notice or order whether served, mailed, or
16 provided electronically as provided in RCW 82.32.135 shall not
17 release the taxpayer from any tax or any increases or penalties
18 thereon.

19
20 **Sec. 26.** RCW 82.32.135 and 2009 c 176 s 1 are each amended to
21 read as follows:

22 (1) Except as otherwise provided in this subsection, whenever the
23 department is required to send any assessment, notice, or any other
24 information to persons by regular mail, the department must instead
25 provide the assessment, notice, or other information electronically.
26 The department may implement the requirement in this subsection in
27 phases. The department, for good cause, may waive the requirement in
28 this subsection for any taxpayer. In the discretion of the
29 department, a waiver under this subsection may be made temporary or
30 permanent, and may be made on the department's own motion.

31 (2) If the assessment, notice, or other information is subject to
32 the confidentiality provisions of RCW 82.32.330, the department must
33 use methods reasonably designed to protect the information from
34 unauthorized disclosure. The provisions of this subsection (2) may be

1 waived by a taxpayer. The waiver must be in writing and may be
2 provided to the department electronically. A person may provide a
3 waiver with respect to a particular item of information or may give a
4 blanket waiver with respect to any item of information or certain
5 items of information to be provided electronically. A blanket waiver
6 will continue until revoked in writing by the taxpayer. Such
7 revocation may be provided to the department electronically in a
8 manner provided or approved by the department.

9 (3) Any assessment, notice, or other information provided by the
10 department electronically to a person is deemed to be received by the
11 taxpayer on the date that the department electronically sends the
12 information to the person or electronically notifies the person that
13 the information is available to be accessed by the person.

14 (4) This section also applies to any information that is not
15 expressly required by statute to be sent by regular mail, but is
16 customarily sent by the department using regular mail, to persons
17 entitled to receive the information.

18 (5)(a) For purposes of this section, "good cause" includes the
19 inability of the department to comply with this section for any
20 reason, including lacking information necessary to send information
21 to a person electronically or to electronically notify a person that
22 information is available to be accessed by the person.

23 (b) "Good cause" also includes the inability of a person to
24 receive or otherwise obtain information from the department
25 electronically because:

26 (i) The person does not have the equipment or software necessary
27 to enable the person to receive or otherwise obtain information from
28 the department electronically;

29 (ii) The equipment or software necessary to enable the person to
30 receive or otherwise obtain information from the department
31 electronically is not functioning properly;

32 (iii) The person does not have access to the internet using the
33 person's own equipment; or

34

1 (iv) Some other circumstance or condition exists that, in the
2 department's judgment, prevents the taxpayer from receiving or
3 otherwise obtaining information from the department electronically.
4

5 **Sec. 27.** RCW 82.32.140 and 2008 c 181 s 503 are each amended to
6 read as follows:

7 (1) Whenever any taxpayer quits business, or sells out,
8 exchanges, or otherwise disposes of more than fifty percent of the
9 fair market value of either its tangible or intangible assets, any
10 tax payable hereunder shall become immediately due and payable, and
11 such taxpayer shall, within ten days thereafter, make a return and
12 pay the tax due, unless an extension is granted under RCW 82.32.080.

13 (2) Any person who becomes a successor shall withhold from the
14 purchase price a sum sufficient to pay any tax due from the taxpayer
15 until such time as the taxpayer shall produce a receipt from the
16 department of revenue showing payment in full of any tax due or a
17 certificate that no tax is due. If any tax is not paid by the
18 taxpayer within ten days from the date of such sale, exchange, or
19 disposal, the successor shall become liable for the payment of the
20 full amount of tax. If the fair market value of the assets acquired
21 by a successor is less than fifty thousand dollars, the successor's
22 liability for payment of the unpaid tax is limited to the fair market
23 value of the assets acquired from the taxpayer. The burden of
24 establishing the fair market value of the assets acquired is on the
25 successor.

26 (3) The payment of any tax by a successor shall, to the extent
27 thereof, be deemed a payment upon the purchase price; and if such
28 payment is greater in amount than the purchase price the amount of
29 the difference shall become a debt due the successor from the
30 taxpayer.

31 (4) No successor shall be liable for any tax due from the person
32 from whom the successor has acquired a business or stock of goods if
33 the successor gives written notice to the department of revenue of
34 such acquisition and no assessment is issued by the department of

1 revenue within six months of receipt of such notice against the
2 former operator of the business and a copy thereof mailed to the
3 successor or provided electronically to the successor in accordance
4 with RCW 82.32.135.

5

6 **Sec. 28.** RCW 82.32.145 and 2020 c 301 s 6 are each amended to
7 read as follows:

8 (1) Whenever the department has issued a warrant under RCW
9 82.32.210 for the collection of unpaid trust fund taxes from a
10 limited liability business entity and that business entity has been
11 terminated, dissolved, or abandoned, or is insolvent, the department
12 may pursue collection of the entity's unpaid trust fund taxes,
13 including penalties and interest on those taxes, against any or all
14 of the responsible individuals. For purposes of this subsection,
15 "insolvent" means the condition that results when the sum of the
16 entity's debts exceeds the fair market value of its assets. The
17 department may presume that an entity is insolvent if the entity
18 refuses to disclose to the department the nature of its assets and
19 liabilities.

20 (2) Personal liability under this section may be imposed for
21 state and local trust fund taxes.

22 (3)(a) For a responsible individual who is the current or a
23 former chief executive or chief financial officer, liability under
24 this section applies regardless of fault or whether the individual
25 was or should have been aware of the unpaid trust fund tax liability
26 of the limited liability business entity.

27 (b) For any other responsible individual, liability under this
28 section applies only if he or she willfully fails to pay or to cause
29 to be paid to the department the trust fund taxes due from the
30 limited liability business entity.

31 (4)(a) Except as provided in this subsection (4)(a), a
32 responsible individual who is the current or a former chief executive
33 or chief financial officer is liable under this section only for
34 trust fund tax liability accrued during the period that he or she was

1 the chief executive or chief financial officer. However, if the
2 responsible individual had the responsibility or duty to remit
3 payment of the limited liability business entity's trust fund taxes
4 to the department during any period of time that the person was not
5 the chief executive or chief financial officer, that individual is
6 also liable for trust fund tax liability that became due during the
7 period that he or she had the duty to remit payment of the limited
8 liability business entity's taxes to the department but was not the
9 chief executive or chief financial officer.

10 (b) All other responsible individuals are liable under this
11 section only for trust fund tax liability that became due during the
12 period he or she had the responsibility or duty to remit payment of
13 the limited liability business entity's taxes to the department.

14 (5) Persons described in subsection (3)(b) of this section are
15 exempt from liability under this section in situations where
16 nonpayment of the limited liability business entity's trust fund
17 taxes is due to reasons beyond their control as determined by the
18 department by rule.

19 (6) Any person having been issued a notice of assessment under
20 this section is entitled to the appeal procedures under RCW
21 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

22 (7) This section does not relieve the limited liability business
23 entity of its trust fund tax liability or otherwise impair other tax
24 collection remedies afforded by law.

25 (8) Collection authority and procedures prescribed in this
26 chapter apply to collections under this section.

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

29 (a) "Chief executive" means: The president of a corporation; or
30 for other entities or organizations other than corporations or if the
31 corporation does not have a president as one of its officers, the
32 highest ranking executive manager or administrator in charge of the
33 management of the company or organization.

34

1 (b) "Chief financial officer" means: The treasurer of a
2 corporation; or for entities or organizations other than corporations
3 or if a corporation does not have a treasurer as one of its officers,
4 the highest senior manager who is responsible for overseeing the
5 financial activities of the entire company or organization.

6 (c) "Limited liability business entity" means a type of business
7 entity that generally shields its owners from personal liability for
8 the debts, obligations, and liabilities of the entity, or a business
9 entity that is managed or owned in whole or in part by an entity that
10 generally shields its owners from personal liability for the debts,
11 obligations, and liabilities of the entity. Limited liability
12 business entities include corporations, limited liability companies,
13 limited liability partnerships, trusts, general partnerships and
14 joint ventures in which one or more of the partners or parties are
15 also limited liability business entities, and limited partnerships in
16 which one or more of the general partners are also limited liability
17 business entities.

18 (d) "Manager" has the same meaning as in RCW 25.15.006.

19 (e) "Member" has the same meaning as in RCW 25.15.006, except
20 that the term only includes members of member-managed limited
21 liability companies.

22 (f) "Officer" means any officer or assistant officer of a
23 corporation, including the president, vice president, secretary, and
24 treasurer.

25 (g)(i) "Responsible individual" includes any current or former
26 officer, manager, member, partner, or trustee of a limited liability
27 business entity with an unpaid tax warrant issued by the department.

28 (ii) "Responsible individual" also includes any current or former
29 employee or other individual, but only if the individual had the
30 responsibility or duty to remit payment of the limited liability
31 business entity's unpaid trust fund tax liability reflected in a tax
32 warrant issued by the department.

33 (iii) Whenever any taxpayer has one or more limited liability
34 business entities as a member, manager, or partner, "responsible

1 individual" also includes any current and former officers, members,
2 or managers of the limited liability business entity or entities or
3 of any other limited liability business entity involved directly in
4 the management of the taxpayer. For purposes of this subsection (9)
5 (g)(iii), "taxpayer" means a limited liability business entity with
6 an unpaid tax warrant issued against it by the department.

7 (h) "Trust fund taxes" means taxes collected from purchasers and
8 held in trust under RCW 82.08.050, including taxes imposed under RCW
9 82.08.020, 82.08.150, and 82.51.010.

10 (i) "Willfully fails to pay or to cause to be paid" means that
11 the failure was the result of an intentional, conscious, and
12 voluntary course of action.

13

14 **Sec. 29.** RCW 82.32.150 and 1961 c 15 s 82.32.150 are each
15 amended to read as follows:

16 All taxes, penalties, and interest shall be paid in full before
17 any action may be instituted in any court to contest all or any part
18 of such taxes, penalties, or interest. No restraining order or
19 injunction shall be granted or issued by any court or judge to
20 restrain or enjoin the collection of any tax or penalty or any part
21 thereof, except upon the ground that the assessment thereof was in
22 violation of the Constitution of the United States or that of the
23 state.

24

25 **Sec. 30.** RCW 82.32.160 and 2007 c 111 s 110 are each amended to
26 read as follows:

27 Any person having been issued a notice of additional taxes,
28 delinquent taxes, interest, or penalties assessed by the department,
29 may within thirty days after the issuance of the original notice of
30 the amount thereof or within the period covered by any extension of
31 the due date thereof granted by the department petition the
32 department in writing for a correction of the amount of the
33 assessment, and a conference for examination and review of the
34 assessment. The petition shall set forth the reasons why the

1 correction should be granted and the amount of the tax, interest, or
2 penalties, which the petitioner believes to be due. The department
3 shall promptly consider the petition and may grant or deny it. If
4 denied, the petitioner shall be notified by mail, or electronically
5 as provided in RCW 82.32.135, thereof forthwith. If a conference is
6 granted, the department shall fix the time and place therefor and
7 notify the petitioner thereof by mail or electronically as provided
8 in RCW 82.32.135. After the conference the department may make such
9 determination as may appear to it to be just and lawful and shall
10 mail a copy of its determination to the petitioner, or provide a copy
11 of its determination electronically as provided in RCW 82.32.135. If
12 no such petition is filed within the thirty-day period the assessment
13 covered by the notice shall become final.

14 The procedures provided for herein shall apply also to a notice
15 denying, in whole or in part, an application for a pollution control
16 tax exemption and credit certificate, with such modifications to such
17 procedures established by departmental rules and regulations as may
18 be necessary to accommodate a claim for exemption or credit.

19

20 **Sec. 31.** RCW 82.32.170 and 2013 c 23 s 324 are each amended to
21 read as follows:

22 Any person, having paid any tax, original assessment, additional
23 assessment, or corrected assessment of any tax, may apply to the
24 department within the time limitation for refund provided in this
25 chapter, by petition in writing for a correction of the amount paid,
26 and a conference for examination and review of the tax liability, in
27 which petition he or she shall set forth the reasons why the
28 conference should be granted, and the amount in which the tax,
29 interest, or penalty, should be refunded. The department shall
30 promptly consider the petition, and may grant or deny it. If denied,
31 the petitioner shall be notified by mail, or electronically as
32 provided in RCW 82.32.135, thereof forthwith. If a conference is
33 granted, the department shall notify the petitioner by mail, or
34 electronically as provided in RCW 82.32.135, of the time and place

1 fixed therefor. After the hearing, the department may make such
2 determination as may appear to it just and lawful, and shall mail a
3 copy of its determination to the petitioner, or provide a copy of its
4 determination electronically as provided in RCW 82.32.135.

5

6 **Sec. 32.** RCW 82.32.180 and 1997 c 156 s 4 are each amended to
7 read as follows:

8 Any person, except one who has failed to keep and preserve books,
9 records, and invoices as required in this chapter and chapter 82.24
10 RCW, having paid any tax as required and feeling aggrieved by the
11 amount of the tax may appeal to the superior court of Thurston
12 county, within the time limitation for a refund provided in chapter
13 82.32 RCW or, if an application for refund has been made to the
14 department within that time limitation, then within thirty days after
15 rejection of the application, whichever time limitation is later. In
16 the appeal the taxpayer shall set forth the amount of the tax imposed
17 upon the taxpayer which the taxpayer concedes to be the correct tax
18 and the reason why the tax should be reduced or abated. The appeal
19 shall be perfected by serving a copy of the notice of appeal upon the
20 department within the time herein specified and by filing the
21 original thereof with proof of service with the clerk of the superior
22 court of Thurston county.

23 The trial in the superior court on appeal shall be de novo and
24 without the necessity of any pleadings other than the notice of
25 appeal. At trial, the burden shall rest upon the taxpayer to prove
26 that the tax as paid by the taxpayer is incorrect, either in whole or
27 in part, and to establish the correct amount of the tax. In such
28 proceeding the taxpayer shall be deemed the plaintiff, and the state,
29 the defendant; and both parties shall be entitled to subpoena the
30 attendance of witnesses as in other civil actions and to produce
31 evidence that is competent, relevant, and material to determine the
32 correct amount of the tax that should be paid by the taxpayer. Either
33 party may seek appellate review in the same manner as other civil
34 actions are appealed to the appellate courts.

1 It shall not be necessary for the taxpayer to protest against the
2 payment of any tax or to make any demand to have the same refunded or
3 to petition the director for a hearing in order to appeal to the
4 superior court, but no court action or proceeding of any kind shall
5 be maintained by the taxpayer to recover any tax paid, or any part
6 thereof, except as herein provided.

7 The provisions of this section shall not apply to any tax payment
8 which has been the subject of an appeal to the board of tax appeals
9 with respect to which appeal a formal hearing has been elected.

10

11 **Sec. 33.** RCW 82.32.190 and 1996 c 149 s 3 are each amended to
12 read as follows:

13 (1) The department, by its order, may hold in abeyance the
14 collection of tax from any taxpayer or any group of taxpayers when a
15 question bearing on their liability for tax hereunder is pending
16 before the courts. The department may impose such conditions as may
17 be deemed just and equitable and shall require the payment of
18 interest at the rate of three-quarters of one percent of the amount
19 of the tax for each thirty days or portion thereof from the date upon
20 which such tax became due until the date of payment.

21 (2) Interest imposed under this section for periods after January
22 1, 1997, shall be computed on a daily basis at the rate as computed
23 under RCW 82.32.050(2). The rate so computed shall be adjusted on the
24 first day of January of each year. Interest for taxes held in
25 abeyance under this section before January 1, 1997, but outstanding
26 after January 1, 1997, shall not be recalculated but shall remain at
27 three-quarters of one percent per each thirty days or portion
28 thereof.

29

30 **Sec. 34.** RCW 82.32.200 and 1996 c 149 s 4 are each amended to
31 read as follows:

32 (1) When any assessment or additional assessment has been made,
33 the taxpayer may obtain a stay of collection, under such
34 circumstances and for such periods as the department of revenue may

1 by general regulation provide, of the whole or any part thereof, by
2 filing with the department a bond in an amount, not exceeding twice
3 the amount on which stay is desired, and with sureties as the
4 department deems necessary, conditioned for the payment of the amount
5 of the assessments, collection of which is stayed by the bond,
6 together with the interest thereon at the rate of one percent of the
7 amount of such assessment for each thirty days or portion thereof
8 from the date the bond is filed until the date of payment.

9 (2) Interest imposed under this section after January 1, 1997,
10 shall be computed on a daily basis on the amount of tax at the rate
11 as computed under RCW 82.32.050(2). The rate so computed shall be
12 adjusted on the first day of January of each year. Interest for bonds
13 filed before January 1, 1997, but outstanding after January 1, 1997,
14 shall not be recalculated but shall remain at one percent per each
15 thirty days or portion thereof.

16

17 **Sec. 35.** RCW 82.32.210 and 2011 c 131 s 1 are each amended to
18 read as follows:

19 (1) If any fee, tax, increase, or penalty or any portion thereof
20 is not paid within fifteen days after it becomes due, the department
21 may issue a warrant in the amount of the unpaid sums, together with
22 interest thereon from the date the warrant is issued until the date
23 of payment. If, however, the department believes that a taxpayer is
24 about to cease business, leave the state, or remove or dissipate the
25 assets out of which fees, taxes or penalties might be satisfied and
26 that any tax or penalty will not be paid when due, it may declare the
27 fee, tax or penalty to be immediately due and payable and may issue a
28 warrant immediately.

29 (a) Interest imposed before January 1, 1999, is computed at the
30 rate of one percent of the amount of the warrant for each thirty days
31 or portion thereof.

32 (b) Interest imposed after December 31, 1998, is computed on a
33 daily basis on the amount of outstanding tax or fee at the rate as
34 computed under RCW 82.32.050(2). The rate so computed must be

1 adjusted on the first day of January of each year for use in
2 computing interest for that calendar year. As used in this
3 subsection, "fee" does not include an administrative filing fee such
4 as a court filing fee and warrant fee.

5 (2) Except as provided in RCW 82.32.212, the department must file
6 a copy of the warrant with the clerk of the superior court of any
7 county of the state in which real and/or personal property of the
8 taxpayer may be found. The clerk is entitled to a filing fee under
9 RCW 36.18.012(10). Upon filing, the clerk will enter in the judgment
10 docket, the name of the taxpayer mentioned in the warrant and in
11 appropriate columns the amount of the fee, tax or portion thereof and
12 any increases and penalties for which the warrant is issued and the
13 date when the copy is filed. The amount of the warrant so docketed is
14 a specific lien upon all goods, wares, merchandise, fixtures,
15 equipment, or other personal property used in the conduct of the
16 business of the taxpayer against whom the warrant is issued,
17 including property owned by third persons who have a beneficial
18 interest, direct or indirect, in the operation of the business, and
19 no sale or transfer of the personal property in any way affects the
20 lien.

21 (3) The lien is not superior, however, to bona fide interests of
22 third persons that vested before the filing of the warrant when the
23 third persons do not have a beneficial interest, direct or indirect,
24 in the operation of the business, other than to secure payment of a
25 debt or to receive a regular rental on equipment. The phrase "bona
26 fide interests of third persons" does not include any mortgage of
27 real or personal property or any other credit transaction that
28 results in the mortgagee or the holder of the security acting as
29 trustee for unsecured creditors of the taxpayer mentioned in the
30 warrant who executed the chattel or real property mortgage or the
31 document evidencing the credit transaction.

32 (4) The amount of the warrant so docketed is also a lien upon the
33 title to and interest in all other real and personal property of the
34 taxpayer against whom it is issued the same as a judgment in a civil

1 case duly docketed in the office of the clerk. The warrant so
2 docketed is sufficient to support the issuance of writs of
3 garnishment in favor of the state as provided by law for judgments
4 wholly or partially unsatisfied.

5

6 **Sec. 36.** RCW 82.32.212 and 2011 c 131 s 2 are each amended to
7 read as follows:

8 (1) To secure payment of a tax warrant issued by the department
9 under RCW 82.32.210, the department may issue a notice of lien
10 against any real property in which the taxpayer against whom the
11 warrant was issued has an ownership interest, if the total amount for
12 which the warrant was issued exceeds twenty-five thousand dollars and
13 the department determines that issuing the notice of lien would best
14 protect the state's interest in collecting the amount due on the
15 warrant. The department must file the notice of lien with the
16 recording officer of the county where the real property is located.
17 The recording officer is entitled to a filing fee as provided under
18 RCW 36.18.010.

19 (2)(a) Except as otherwise provided in this section, recording a
20 notice of lien as authorized in this section is in lieu of filing
21 with the clerk of the superior court a copy of the warrant secured by
22 the notice of lien.

23 (b) Notwithstanding (a) of this subsection (2), the department
24 may file with the superior court a warrant that is secured by a
25 notice of lien under this section if: (i) The department determines
26 that filing the warrant is in the best interest of collecting the
27 amount due on the tax warrant; or (ii) the warrant remains unpaid six
28 months after the notice of lien was issued.

29 (3) If a warrant has been filed with the clerk of the superior
30 court, the department may issue and record a notice of lien against
31 real property of the taxpayer and file a conditional satisfaction of
32 the warrant with the clerk of the superior court of the county in
33 which the warrant was filed, if the department determines that such
34

1 actions are in the best interest of collecting the amount due on the
2 warrant.

3 (a) A warrant for which a conditional satisfaction is filed will
4 continue to accrue interest on the unpaid balance as provided in RCW
5 82.32.210.

6 (b)(i) The department may refile a warrant for which a
7 conditional satisfaction has been filed if: (A) The department
8 determines that refiling the warrant is in the best interest of
9 collecting the amount due on the warrant; or (B) the warrant remains
10 unpaid six months after the notice of lien was issued.

11 (ii) A warrant is refiled in the same manner as it was originally
12 filed.

13 (c) A warrant that is refiled as provided in this subsection (3)
14 reinstates the liens provided under RCW 82.32.210 as of the date the
15 warrant is refiled.

16 (d) For the purposes of this subsection (3), a "conditional
17 satisfaction" is a document issued by the department, which, when
18 filed with the clerk of the superior court of the county in which the
19 warrant was filed, releases the liens provided under RCW 82.32.210
20 without prejudice to refile the warrant at a later date.

21 (4) When a taxpayer has requested the department to use the
22 collection authority under this section, in order to determine if the
23 issuance of a notice of lien would best protect the state's interest
24 in collecting the amount due on the warrant, the department may
25 require the taxpayer to:

26 (a) Provide, at the taxpayer's expense, the department with a
27 current abstract of title as defined by RCW 48.29.010 from a title
28 insurer that possesses a certificate of authority issued under Title
29 48 RCW; and

30 (b) Authorize the department to obtain the taxpayer's current
31 credit report.

32 (5) A notice of lien issued under this section must include the
33 following information:

34

- 1 (a) The name of the taxpayer who has an interest in the real
2 property against which the notice of lien is filed;
3 (b) The taxpayer's tax registration number issued as provided in
4 RCW 82.32.030;
5 (c) The number of the warrant issued by the department;
6 (d) The amount for which the warrant was issued;
7 (e) The legal description, tax parcel number assigned under RCW
8 84.40.160, and the street address, if available, of the real property
9 against which the notice of lien is issued; and
10 (f) Any other information the department determines would be
11 useful.

12 (6) The notice of lien issued under this section is superior to
13 all other liens and encumbrances, except:

14 (a) Bona fide interests of third persons that had vested prior to
15 the recording of the notice of lien, if the third persons do not have
16 a beneficial interest, direct or indirect, in the operation of the
17 taxpayer's business, other than the securing of the payment of a debt
18 or the receiving of a regular rental on equipment. For purposes of
19 this subsection, "bona fide interests of third persons" has the same
20 meaning as in RCW 82.32.210; and

21 (b) Property taxes and special assessments against the property.

22 (7) The department must release a notice of lien issued under
23 this section as soon as practicable after receipt of payment in full
24 of the amount due on the warrant secured by the notice of lien,
25 including interest accrued as provided in RCW 82.32.210(1) and all
26 recording fees claimed by the recording officer for the recording of
27 the notice of lien and the release of the lien.

28 (8) The department must release a notice of lien issued under
29 this section within fourteen days if the notice of lien was issued in
30 error.

31

32 **Sec. 37.** RCW 82.32.215 and 2013 c 309 s 1 are each amended to
33 read as follows:

34

1 (1) The department may, by order, revoke the certificate of
2 registration of a taxpayer for any of the following reasons:

3 (a) A warrant issued under this chapter is not paid within thirty
4 days after it has been filed with the clerk of the superior court;

5 (b) The taxpayer is delinquent, for three consecutive reporting
6 periods, in the transmission to the department of retail sales tax
7 collected by the taxpayer; or

8 (c)(i)(A) The taxpayer was convicted of violating RCW
9 82.32.290(4) and continues to engage in business without fully
10 complying with RCW 82.32.290(4)(b) (i) through (iii); or

11 (B) A person convicted of violating RCW 82.32.290(4) is an owner,
12 officer, director, partner, trustee, member, or manager of the
13 taxpayer, and the person and taxpayer have not fully complied with
14 RCW 82.32.290(4)(b) (i) through (iii).

15 (ii) For the purposes of this subsection (1)(c), the terms
16 "manager," "member," and "officer" mean the same as defined in RCW
17 82.32.145.

18 (2) If the department enters a final order revoking a taxpayer's
19 certificate of registration, a copy of the order must, if
20 practicable, be posted in a conspicuous place at the main entrance to
21 the taxpayer's place of business. The department may also post a
22 final order revoking a taxpayer's certificate of registration in any
23 public facility, such as a courthouse or post office, as may be
24 allowed by the public entity that owns or occupies the facility. A
25 final order posted at the taxpayer's place of business must remain
26 posted until such time as the taxpayer is eligible to have its
27 certificate of registration reinstated as provided in subsection (3)
28 of this section or has abandoned the premises. A taxpayer will not be
29 deemed to have abandoned the premises if the taxpayer or any person
30 with an ownership interest in the taxpayer continues to operate a
31 substantially similar type of business under a different legal entity
32 at the same location.

33

34

1 (3) Any certificate revoked under subsection (1) of this section
2 may not be reinstated, nor may a new certificate of registration be
3 issued to the taxpayer, until:

4 (a) The amount due on the warrant has been paid, or provisions
5 for payment satisfactory to the department have been entered, and
6 until the taxpayer has deposited with the department security for
7 payment of any taxes, increases, and penalties, due or which may
8 become due in an amount and under such terms and conditions as the
9 department of revenue may require, but the amount of the security may
10 not be greater than one-half the estimated average annual liability
11 of the taxpayer; or

12 (b) The taxpayer and, if applicable, the owner, officer,
13 director, partner, trustee, member, or manager of the taxpayer who
14 was convicted of violating RCW 82.32.290(4) are in full compliance
15 with RCW 82.32.290(4)(b) (i) through (iii), if the certificate of
16 registration was revoked under the provisions of subsection (1)(c) of
17 this section.

18
19 **Sec. 38.** RCW 82.32.220 and 1998 c 311 s 10 are each amended to
20 read as follows:

21 The department of revenue may issue an order of execution,
22 pursuant to a filed warrant, directed to the sheriff of the county in
23 which the warrant has been filed, commanding the sheriff to levy upon
24 and sell the real and/or personal property of the taxpayer found
25 within the sheriff's county, or so much thereof as may be necessary,
26 for the payment of the amount of the warrant, plus the cost of
27 executing the warrant, and return the warrant to the department of
28 revenue and pay to it the money collected by virtue thereof within
29 sixty days after the receipt of the warrant. The sheriff shall
30 thereupon proceed upon the same in all respects and with like effect
31 as prescribed by law with respect to execution or other process
32 issued against rights or property upon judgments of the superior
33 court.

34

1 The sheriff shall be entitled to fees as provided by law for the
2 sheriff's services in levying execution on a superior court judgment
3 and the clerk shall be entitled to a filing fee as provided by law,
4 which shall be added to the amount of the warrant.

5 The proceeds received from any sale shall be credited upon the
6 amount due under the warrant and when the final amount due is
7 received, together with interest, penalties, and costs, the judgment
8 docket shall show the claim for taxes to be satisfied and the clerk
9 of the court shall so note upon the docket. Any surplus received from
10 any sale of property shall be paid to the taxpayer or to any
11 lienholder entitled thereto. If the return on the warrant shows that
12 the same has not been satisfied in full, the amount of the deficiency
13 shall remain the same as a judgment against the taxpayer which may be
14 collected in the same manner as the original amount of the warrant.

15

16 **Sec. 39.** RCW 82.32.230 and 1983 1st ex.s. c 55 s 11 are each
17 amended to read as follows:

18 In the discretion of the department of revenue, an order of
19 execution of like terms, force, and effect may be issued and directed
20 to any agent of the department authorized to collect taxes, and in
21 the execution thereof such agent shall have all the powers conferred
22 by law upon sheriffs, but shall not be entitled to any fee or
23 compensation in excess of the actual expenses paid in the performance
24 of such duty, which shall be added to the amount of the warrant.

25

26 **Sec. 40.** RCW 82.32.235 and 2014 c 210 s 2 are each amended to
27 read as follows:

28 (1) In addition to the remedies provided in this chapter the
29 department is authorized to issue to any person, including the
30 department, a notice and order to withhold and deliver property of
31 any kind whatsoever when there is reason to believe that there is in
32 the possession of such person, property which is or will become due,
33 owing, or belonging to any taxpayer against whom a warrant has been
34 filed.

1 (2) The sheriff of the county where the service is made, or his
2 or her deputy, or any duly authorized representative of the
3 department may personally serve the notice and order to withhold and
4 deliver upon the person to whom it is directed or may do so by
5 certified mail, with return receipt requested. Upon written consent
6 of the person to be served, a notice and order to withhold and
7 deliver issued under subsection (1) of this section may be served
8 electronically.

9 (3)(a) The department is authorized to issue a notice and order
10 to withhold and deliver to any financial institution in the form of a
11 listing of all or a portion of the unsatisfied tax warrants filed
12 under this chapter and outstanding warrants under RCW 49.48.086 with
13 the clerk of the superior court of a county of the state, except tax
14 warrants subject to a payment agreement, which is not in default,
15 between the department and the taxpayer. The department may also
16 issue a notice and order to withhold and deliver in the form
17 authorized in this subsection (3)(a) to itself or any other person
18 upon that person's written consent.

19 (b) The department may serve the notice and order to withhold and
20 deliver authorized under this subsection electronically. The remedy
21 in this subsection (3) is in addition to any other remedies
22 authorized by law.

23 (c) No more than one notice and order to withhold and deliver
24 under this subsection (3) may be served on the same person in a
25 calendar month except upon the person's written consent.

26 (d) A notice and order to withhold and deliver served on a
27 financial institution under this subsection (3) must include the
28 federal taxpayer identification number of each taxpayer listed in the
29 notice.

30 (e) For purposes of this subsection, "financial institution"
31 means a bank, trust company, mutual savings bank, savings and loan
32 association, or credit union authorized to do business and accept
33 deposits in this state under state or federal law.

34

1 (f) The department may provide a financial institution relief
2 from a notice and order to withhold and deliver in the form provided
3 under this subsection (3) upon the request of the financial
4 institution. The department must consider the size, customer base,
5 and geographic location of the financial institution when considering
6 whether to provide relief. The department must serve any financial
7 institution so relieved under subsection (1) of this section.

8 (4) Any person who has been served with a notice and order to
9 withhold and deliver under subsection (1) of this section must answer
10 the notice within twenty days, exclusive of the day of service. Any
11 person who has been served with a notice and order to withhold and
12 deliver under subsection (3) of this section must answer the notice
13 within thirty days, exclusive of the day of service. The answer must
14 be in writing, under oath if required by the department, and include
15 true answers to the matters inquired of in the notice. Any person
16 served under subsection (3) of this section may answer in aggregate
17 within thirty days, but must answer separately as to each taxpayer
18 listed and specify any property by taxpayer which is delivered. The
19 department must allow any person served electronically as authorized
20 in subsection (2) or (3) of this section to answer the notice and
21 order to withhold and deliver electronically in a format provided or
22 approved by the department.

23 (5) In the event there is in the possession of any person served
24 with a notice and order to withhold and deliver, any property which
25 may be subject to the claim of the department, such property must be
26 delivered immediately to the department of revenue or its duly
27 authorized representative upon demand. The department must hold the
28 property in trust for application on the indebtedness involved or for
29 return, without interest, in accordance with final determination of
30 liability or nonliability. Instead of delivering the property to the
31 department or the department's duly authorized representative, the
32 person may furnish a bond satisfactory to the department conditioned
33 upon final determination of liability.

34

1 (6) Should any person, having been served with a notice and order
2 to withhold and deliver, fail to answer the notice and order to
3 withhold and deliver within the time prescribed in this section or
4 otherwise fail to comply with the duties imposed in this section, the
5 department may bring a proceeding, in the superior court of Thurston
6 county or of the county in which service of the notice was made, to
7 enforce the notice and order to withhold and deliver. The court may
8 render judgment by default against such person for the full amount
9 claimed by the department in the notice and order to withhold and
10 deliver or may grant such other relief as the court deems just,
11 together with costs.

12 (7) For purposes of this section, "person" has the same meaning
13 as in RCW 82.04.030 and also includes any agency, department, or
14 institution of the state.

15

16 **Sec. 41.** RCW 82.32.237 and 1987 c 208 s 2 are each amended to
17 read as follows:

18 Upon service, the notice and order to withhold and deliver shall
19 constitute a continuing lien on property of the taxpayer and upon
20 wages due, owing, or belonging to the taxpayer. The department shall
21 include in the caption of the notice and order to withhold and
22 deliver "continuing lien." The effective date of a notice and order
23 to withhold and deliver served under RCW 82.32.235 shall be the date
24 of service thereof.

25

26 **Sec. 42.** RCW 82.32.240 and 1994 c 221 s 69 are each amended to
27 read as follows:

28 Any tax due and unpaid and all increases and penalties thereon,
29 shall constitute a debt to the state and may be collected by court
30 proceedings in the same manner as any other debt in like amount,
31 which remedy shall be in addition to any and all other existing
32 remedies.

33 In all cases of probate, insolvency, assignment for the benefit
34 of creditors, or bankruptcy, involving any taxpayer who is, or

1 decedent who was, engaging in business, the claim of the state for
2 said taxes and all increases and penalties thereon shall be a lien
3 upon all real and personal property of the taxpayer, and the mere
4 existence of such cases or conditions shall be sufficient to create
5 such lien without any prior or subsequent action by the state, and in
6 all such cases it shall be the duty of all administrators, executors,
7 guardians, receivers, trustees in bankruptcy or assignees for the
8 benefit of creditors, to notify the department of revenue of such
9 administration, receivership or assignment within sixty days from the
10 date of their appointment and qualification.

11 The lien provided for by this section shall attach as of the date
12 of the assignment for the benefit of creditors or of the initiation
13 of the probate, insolvency, or bankruptcy proceedings: PROVIDED, That
14 this sentence shall not be construed as affecting the validity or
15 priority of any earlier lien that may have attached previously in
16 favor of the state under any other section of this title.

17 Any administrator, executor, guardian, receiver or assignee for
18 the benefit of creditors not giving the notification as provided for
19 above shall become personally liable for payment of the taxes and all
20 increases and penalties thereon to the extent of the value of the
21 property subject to administration that otherwise would have been
22 available for the payment of such taxes, increases, and penalties by
23 the administrator, executor, guardian, receiver, or assignee.

24 As used in this section, "probate" includes the nonprobate claim
25 settlement procedure under chapter 11.42 RCW, and "executor" and
26 "administrator" includes any notice agent acting under chapter 11.42
27 RCW.

28

29 **Sec. 43.** RCW 82.32.245 and 1985 c 414 s 3 are each amended to
30 read as follows:

31 (1) When there is probable cause to believe that there is
32 property within this state, not otherwise exempt from process or
33 execution, in the possession or control of any taxpayer against whom
34 a tax warrant has been filed which remains unsatisfied, any judge of

1 the superior court or district court in the county in which such
2 property is located may, upon the request of the sheriff or agent of
3 the department authorized to collect taxes, issue a warrant directed
4 to such officers commanding the search for and seizure of the
5 property described in the request for warrant.

6 (2) Application for, issuance, and execution and return of the
7 warrant authorized by this section and for return of any property
8 seized shall be in accordance with the criminal rules of the superior
9 court and the justice court.

10 (3) The sheriff or agent of the department shall levy execution
11 upon property seized pursuant to this section as provided in RCW
12 82.32.220 and 82.32.230.

13 (4) Nothing in this section shall require the application for and
14 issuance of any warrant not otherwise required by law.

15

16 **Sec. 44.** RCW 82.32.260 and 2013 c 23 s 325 are each amended to
17 read as follows:

18 In the case of any corporation organized under the laws of this
19 state, the courts shall not enter or sign any decree of dissolution,
20 nor shall the secretary of state file in his or her office any
21 certificate of dissolution, and in the case of any corporation
22 organized under the laws of another jurisdiction and admitted to do
23 business in this state, the secretary of state shall withhold the
24 issuance of any certificate of withdrawal, until proof, in the form
25 of a certificate from the department of revenue, has been furnished
26 by the applicant for such dissolution or withdrawal, that every
27 license fee, tax, increase, or penalty has been paid or provided for.

28

29 **Sec. 45.** RCW 82.32.265 and 1987 c 80 s 5 are each amended to
30 read as follows:

31 (1) The department may retain, by written contract, collection
32 agencies licensed under chapter 19.16 RCW or licensed under the laws
33 of another state or the District of Columbia for the purpose of
34 collecting from sources outside the state of Washington taxes

1 including interest and penalties thereon imposed under this title and
2 RCW 84.33.041.

3 (2) Only accounts represented by tax warrants filed in the
4 superior court of a county in the state as provided by RCW 82.32.210
5 may be assigned to a collection agency, and no such assignment may be
6 made unless the department has previously notified or has attempted
7 to notify the taxpayer of his or her right to petition for correction
8 of assessment within the time provided and in accordance with the
9 procedures set forth in chapter 82.32 RCW.

10 (3) Collection agencies assigned accounts for collection under
11 this section shall have only those remedies and powers that would be
12 available to them as assignees of private creditors. However, nothing
13 in this section limits the right to enforce the liability for taxes
14 lawfully imposed under the laws of this state in the courts of
15 another state or the District of Columbia as provided by the laws of
16 such jurisdictions and RCW 4.24.140 and 4.24.150.

17 (4) The account of the taxpayer shall be credited with the
18 amounts collected by a collection agency before reduction for
19 reasonable collection costs, including attorneys fees, that the
20 department is authorized to negotiate on a contingent fee or other
21 basis.

22

23 **Sec. 46.** RCW 82.32.270 and 2013 c 23 s 326 are each amended to
24 read as follows:

25 The taxes imposed hereunder, and the returns required therefor,
26 shall be upon a calendar year basis; but, if any taxpayer in
27 transacting his or her business, keeps books reflecting the same on a
28 basis other than the calendar year, he or she may, with consent of
29 the department of revenue, make his or her returns, and pay taxes
30 upon the basis of his or her accounting period as shown by the method
31 of keeping the books of his or her business.

32

33 **Sec. 47.** RCW 82.32.280 and 1961 c 15 s 82.32.280 are each
34 amended to read as follows:

1 Taxes imposed hereunder shall be in addition to any and all other
2 licenses, taxes, and excises levied or imposed by the state or any
3 municipal subdivision thereof.

4

5 **Sec. 48.** RCW 82.32.290 and 2022 c 41 s 3 are each amended to
6 read as follows:

7 (1)(a) It is unlawful:

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

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

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

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

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

22 (vi) For any person to fail or refuse to permit the examination
23 of any book, paper, account, record, or other data by the department
24 or its duly authorized agent; or to fail or refuse to permit the
25 inspection or appraisal of any property by the department or its duly
26 authorized agent; or to refuse to offer testimony or produce any
27 record as required.

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

31 (2)(a) It is unlawful:

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

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

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

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

11 (3) In addition to the foregoing penalties, any person who
12 knowingly swears to or verifies any false or fraudulent return, or
13 any return containing any false or fraudulent statement with the
14 intent aforesaid, is guilty of the offense of perjury in the second
15 degree and must be punished, upon conviction thereof, by a fine of
16 not more than one thousand dollars.

17 (4)(a) It is unlawful for any person to knowingly sell, purchase,
18 install, transfer, manufacture, create, design, update, repair, use,
19 possess, or otherwise make available, in this state, any automated
20 sales suppression device or phantom-ware. However, it is not unlawful
21 for persons to possess or use automated sales suppression devices or
22 phantom-ware as authorized in RCW 82.32.670(6).

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

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

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

30 (iii) The person, if the person is engaging in business subject
31 to tax under this title, or the business in which the person
32 participates, enters into a written agreement with the department for
33 the electronic monitoring of the business's sales, by a method
34

1 acceptable to the department, for five years at the business's
2 expense.

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

7 (ii) Any person violating the provisions of this subsection by
8 furnishing an automated sales suppression device or phantom-ware to
9 another person or by updating or repairing another person's automated
10 sales suppression device or phantom-ware is, in addition to the
11 punishments prescribed in chapter 9A.20 RCW, subject to a mandatory
12 fine fixed by the court in an amount equal to the greater of ten
13 thousand dollars, the defendant's gain from the commission of the
14 crime, or the state's loss from the commission of the crime. For
15 purposes of this subsection (4)(c)(ii), "loss" means the total of all
16 taxes, penalties, and interest certified by the department to be due,
17 as of the date of sentencing, as a result of any violation of the
18 provisions of this subsection by a person using the automated sales
19 suppression device or phantom-ware obtained from, or updated or
20 repaired by, the defendant, which results in the defendant's
21 conviction for violating the provisions of this subsection.

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

24 (e) The definitions in RCW 82.32.670 apply to this subsection
25 (4).

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

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

30

31 **Sec. 49.** RCW 82.32.291 and 2010 c 112 s 12 are each amended to
32 read as follows:

33 (1) Except as otherwise provided in this section, if any buyer
34 improperly uses a reseller permit number, reseller permit, or other

1 documentation authorized under RCW 82.04.470 to purchase items or
2 services at retail without payment of sales tax that was legally due
3 on the purchase, the department must assess against that buyer a
4 penalty of fifty percent of the tax due, in addition to all other
5 taxes, penalties, and interest due, on the improperly purchased item
6 or service.

7 (2) The department must waive the penalty imposed under
8 subsection (1) of this section if it finds that the use of the
9 reseller permit number, reseller permit, or other documentation
10 authorized under RCW 82.04.470 was due to circumstances beyond the
11 taxpayer's control or if the reseller permit number, reseller permit,
12 or other documentation authorized under RCW 82.04.470 was properly
13 used for purchases for dual purposes. The department must define by
14 rule what circumstances are considered to be beyond the taxpayer's
15 control.

16 (3) A buyer that purchases items or services at retail without
17 payment of sales tax legally due on the purchase is deemed to have
18 improperly used a reseller permit number, reseller permit, or other
19 documentation authorized under RCW 82.04.470 to purchase the items or
20 services without payment of sales tax and is subject to the penalty
21 in subsection (1) of this section if the buyer:

22 (a) Furnished to the seller a reseller permit number, a reseller
23 permit or copy of a reseller permit, or other documentation
24 authorized under RCW 82.04.470 to avoid payment of sales tax legally
25 due on the purchase; or

26 (b) Made the purchase from a seller that had previously used
27 electronic means to verify the validity of the buyer's reseller
28 permit with the department and, as a result, did not require the
29 buyer to provide a copy of its reseller permit or furnish other
30 documentation authorized under RCW 82.04.470 to document the
31 wholesale nature of the purchase. In such cases, the buyer bears the
32 burden of proving that it did not improperly use its reseller permit
33 to make the purchase without payment of sales tax.

34

1 **Sec. 50.** RCW 82.32.300 and 2020 c 139 s 39 are each amended to
2 read as follows:

3 (1) The department must administer this chapter and such other
4 provisions of the Revised Code of Washington as specifically provided
5 by law. To that end, the department may prescribe forms and rules of
6 procedure for the determination of the taxable status of any person,
7 for the making of returns and for the ascertainment, assessment, and
8 collection of taxes and penalties imposed thereunder.

9 (2)(a) The department may make and publish rules, not
10 inconsistent therewith, necessary to enforce provisions of this
11 chapter and such other provisions of the Revised Code of Washington
12 that the department is empowered by law to enforce. The liquor and
13 cannabis board may make and publish rules necessary to enforce
14 chapters 82.24, 82.26, and 82.25 RCW.

15 (b) Rules adopted by the department or liquor and cannabis board
16 under the authority of this subsection have the same force and effect
17 as if specifically included in law, unless declared invalid by the
18 judgment of a court of record not appealed from.

19 (3) The department may employ such clerks, specialists, and other
20 assistants as are necessary. Salaries and compensation of such
21 employees must be fixed by the department and charged to the proper
22 appropriation for the department.

23 (4) The department must exercise general supervision of the
24 collection of taxes and, in the discharge of such duty, may institute
25 and prosecute such suits or proceedings in the courts as may be
26 necessary and proper.

27

28 **Sec. 51.** RCW 82.32.310 and 2013 c 23 s 327 are each amended to
29 read as follows:

30 When recovery is had in any suit or proceeding against an
31 officer, agent, or employee of the department of revenue for any act
32 done by him or her or for the recovery of any money exacted by or
33 paid to him or her and by him or her paid over to the department, in
34 the performance of his or her official duty, and the court certifies

1 that there was probable cause for the act done by such officer,
2 agent, or employee, or that he or she acted under the direction of
3 the department or an officer thereof, no execution shall issue
4 against such officer, agent, or employee, but the amount so recovered
5 shall, upon final judgment, be paid by the department as an expense
6 of operation.

7

8 **Sec. 52.** RCW 82.32.320 and 1995 c 318 s 7 are each amended to
9 read as follows:

10 The department of revenue, on the next business day following the
11 receipt of any payments hereunder, shall transmit them to the state
12 treasurer, taking his or her receipt therefor. If a return or payment
13 is submitted with less than the full amount of all taxes, interest,
14 and penalties due, the department may allocate payments among
15 applicable funds so as to minimize administrative costs to the extent
16 practicable.

17

18 **Sec. 53.** RCW 82.32.330 and 2022 c 56 s 9 are each amended to
19 read as follows:

20 (1) For purposes of this section:

21 (a) "Disclose" means to make known to any person in any manner
22 whatever a return or tax information;

23 (b) "Return" means a tax or information return or claim for
24 refund required by, or provided for or permitted under, the laws of
25 this state which is filed with the department of revenue by, on
26 behalf of, or with respect to a person, and any amendment or
27 supplement thereto, including supporting schedules, attachments, or
28 lists that are supplemental to, or part of, the return so filed;

29 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
30 nature, source, or amount of the taxpayer's income, payments,
31 receipts, deductions, exemptions, credits, assets, liabilities, net
32 worth, tax liability deficiencies, overassessments, or tax payments,
33 whether taken from the taxpayer's books and records or any other
34 source, (iii) whether the taxpayer's return was, is being, or will be

1 examined or subject to other investigation or processing, (iv) a part
2 of a written determination that is not designated as a precedent and
3 disclosed pursuant to RCW 82.32.410, or a background file document
4 relating to a written determination, and (v) other data received by,
5 recorded by, prepared by, furnished to, or collected by the
6 department of revenue with respect to the determination of the
7 existence, or possible existence, of liability, or the amount
8 thereof, of a person under the laws of this state for a tax, penalty,
9 interest, fine, forfeiture, or other imposition, or offense. However,
10 data, material, or documents that do not disclose information related
11 to a specific or identifiable taxpayer do not constitute tax
12 information under this section. Except as provided by RCW 82.32.410,
13 nothing in this chapter requires any person possessing data,
14 material, or documents made confidential and privileged by this
15 section to delete information from such data, material, or documents
16 so as to permit its disclosure;

17 (d) "State agency" means every Washington state office,
18 department, division, bureau, board, commission, or other state
19 agency;

20 (e) "Taxpayer identity" means the taxpayer's name, address,
21 telephone number, registration number, or any combination thereof, or
22 any other information disclosing the identity of the taxpayer; and

23 (f) "Department" means the department of revenue or its officer,
24 agent, employee, or representative.

25 (2) Returns and tax information are confidential and privileged,
26 and except as authorized by this section, neither the department of
27 revenue nor any other person may disclose any return or tax
28 information.

29 (3) This section does not prohibit the department of revenue
30 from:

31 (a) Disclosing such return or tax information in a civil or
32 criminal judicial proceeding or an administrative proceeding:

33

34

1 (i) In respect of any tax imposed under the laws of this state if
2 the taxpayer or its officer or other person liable under this title
3 or chapter 83.100 RCW is a party in the proceeding;

4 (ii) In which the taxpayer about whom such return or tax
5 information is sought and another state agency are adverse parties in
6 the proceeding; or

7 (iii) Brought by the department under RCW 18.27.040 or 19.28.071;

8 (b) Disclosing, subject to such requirements and conditions as
9 the director prescribes by rules adopted pursuant to chapter 34.05
10 RCW, such return or tax information regarding a taxpayer to such
11 taxpayer or to such person or persons as that taxpayer may designate
12 in a request for, or consent to, such disclosure, or to any other
13 person, at the taxpayer's request, to the extent necessary to comply
14 with a request for information or assistance made by the taxpayer to
15 such other person. However, tax information not received from the
16 taxpayer must not be so disclosed if the director determines that
17 such disclosure would compromise any investigation or litigation by
18 any federal, state, or local government agency in connection with the
19 civil or criminal liability of the taxpayer or another person, or
20 that such disclosure would identify a confidential informant, or that
21 such disclosure is contrary to any agreement entered into by the
22 department that provides for the reciprocal exchange of information
23 with other government agencies which agreement requires
24 confidentiality with respect to such information unless such
25 information is required to be disclosed to the taxpayer by the order
26 of any court;

27 (c) Disclosing the name of a taxpayer against whom a warrant
28 under RCW 82.32.210 has been either issued or filed and remains
29 outstanding for a period of at least ten working days. The department
30 is not required to disclose any information under this subsection if
31 a taxpayer has entered a deferred payment arrangement with the
32 department for the payment of a warrant that has not been filed and
33 is making payments upon such deficiency that will fully satisfy the
34 indebtedness within twelve months;

1 (d) Publishing statistics so classified as to prevent the
2 identification of particular returns or reports or items thereof;

3 (e) Disclosing such return or tax information, for official
4 purposes only, to the governor or attorney general, or to any state
5 agency, or to any committee or subcommittee of the legislature
6 dealing with matters of taxation, revenue, trade, commerce, the
7 control of industry or the professions;

8 (f) Permitting the department of revenue's records to be audited
9 and examined by the proper state officer, his or her agents and
10 employees;

11 (g) Disclosing any such return or tax information to a peace
12 officer as defined in RCW 9A.04.110 or county prosecuting attorney,
13 for official purposes. The disclosure may be made only in response to
14 a search warrant, subpoena, or other court order, unless the
15 disclosure is for the purpose of criminal tax enforcement. A peace
16 officer or county prosecuting attorney who receives the return or tax
17 information may disclose that return or tax information only for use
18 in the investigation and a related court proceeding, or in the court
19 proceeding for which the return or tax information originally was
20 sought;

21 (h) Disclosing any such return or tax information to the proper
22 officer of the internal revenue service of the United States, the
23 Canadian government or provincial governments of Canada, or to the
24 proper officer of the tax department of any state or city or town or
25 county, for official purposes, but only if the statutes of the United
26 States, Canada or its provincial governments, or of such other state
27 or city or town or county, as the case may be, grants substantially
28 similar privileges to the proper officers of this state;

29 (i) Disclosing any such return or tax information to the United
30 States department of justice, including the bureau of alcohol,
31 tobacco, firearms and explosives, the department of defense, the
32 immigration and customs enforcement and the customs and border
33 protection agencies of the United States department of homeland
34 security, the United States coast guard, the alcohol and tobacco tax

1 and trade bureau of the United States department of treasury, and the
2 United States department of transportation, or any authorized
3 representative of these federal agencies, for official purposes;

4 (j) Publishing or otherwise disclosing the text of a written
5 determination designated by the director as a precedent pursuant to
6 RCW 82.32.410;

7 (k) Disclosing, in a manner that is not associated with other tax
8 information, the taxpayer name, entity type, business address,
9 mailing address, revenue tax registration numbers, reseller permit
10 numbers and the expiration date and status of such permits, North
11 American industry classification system or standard industrial
12 classification code of a taxpayer, and the dates of opening and
13 closing of business. This subsection may not be construed as giving
14 authority to the department to give, sell, or provide access to any
15 list of taxpayers for any commercial purpose;

16 (l) Disclosing such return or tax information that is also
17 maintained by another Washington state or local governmental agency
18 as a public record available for inspection and copying under the
19 provisions of chapter 42.56 RCW or is maintained by a court of record
20 and is not otherwise prohibited from disclosure;

21 (m) Disclosing such return or tax information to the United
22 States department of agriculture for the limited purpose of
23 investigating food stamp fraud by retailers;

24 (n) Disclosing to a financial institution, escrow company, or
25 title company, in connection with specific real property that is the
26 subject of a real estate transaction, current amounts due the
27 department for a filed tax warrant, judgment, or lien against the
28 real property;

29 (o) Disclosing to a person against whom the department has
30 asserted liability as a successor under RCW 82.32.140 return or tax
31 information pertaining to the specific business of the taxpayer to
32 which the person has succeeded;

33 (p) Disclosing real estate excise tax affidavit forms filed under
34 RCW 82.45.150 in the possession of the department, including real

1 estate excise tax affidavit forms for transactions exempt or
2 otherwise not subject to tax;

3 (q) Disclosing to local taxing jurisdictions the identity of
4 sellers granted relief under RCW 82.32.430(5)(b)(i) and the period
5 for which relief is granted;

6 (r) Disclosing such return or tax information to the court in
7 respect to the department's application for a subpoena under RCW
8 82.32.117;

9 (s) Disclosing to a person against whom the department has
10 asserted liability under RCW 83.100.120 return or tax information
11 pertaining to that person's liability for tax under chapter 83.100
12 RCW;

13 (t) Disclosing such return or tax information to the streamlined
14 sales tax governing board, member states of the streamlined sales tax
15 governing board, or authorized representatives of such board or
16 states, for the limited purposes of:

17 (i) Conducting on behalf of member states sales and use tax
18 audits of taxpayers; or

19 (ii) Auditing certified service providers or certified automated
20 systems providers;

21 (u) Disclosing any such return or tax information when the
22 disclosure is specifically authorized under any other section of the
23 Revised Code of Washington;

24 (v) Disclosing to an individual to whom the department has issued
25 an assessment under RCW 82.32.145 for unpaid trust fund taxes of a
26 defunct or insolvent entity, return or tax information of that entity
27 pertaining to those unpaid trust fund taxes;

28 (w) Disclosing any such return or tax information pursuant to a
29 federal grand jury subpoena or subpoena issued by a United States
30 attorney, only to be used in the criminal investigation and related
31 court proceedings, or in the court proceeding for which the return or
32 tax information originally was sought; or

33 (x) Disclosing any return or tax information to an individual
34 when the return or tax information is related directly to that

1 person's individual liability, as part of a marital community, for
2 amounts due under a warrant issued under the authority of RCW
3 59.30.090 or 82.32.210.

4 (4)(a) The department may disclose return or taxpayer information
5 to a person under investigation or during any court or administrative
6 proceeding against a person under investigation as provided in this
7 subsection (4). The disclosure must be in connection with the
8 department's official duties relating to an audit, collection
9 activity, or a civil or criminal investigation. The disclosure may
10 occur only when the person under investigation and the person in
11 possession of data, materials, or documents are parties to the return
12 or tax information to be disclosed. The department may disclose
13 return or tax information such as invoices, contracts, bills,
14 statements, resale or exemption certificates, or checks. However, the
15 department may not disclose general ledgers, sales or cash receipt
16 journals, check registers, accounts receivable/payable ledgers,
17 general journals, financial statements, expert's workpapers, income
18 tax returns, state tax returns, tax return workpapers, or other
19 similar data, materials, or documents.

20 (b) Before disclosure of any tax return or tax information under
21 this subsection (4), the department must, through written
22 correspondence, inform the person in possession of the data,
23 materials, or documents to be disclosed. The correspondence must
24 clearly identify the data, materials, or documents to be disclosed.
25 The department may not disclose any tax return or tax information
26 under this subsection (4) until the time period allowed in (c) of
27 this subsection has expired or until the court has ruled on any
28 challenge brought under (c) of this subsection.

29 (c) The person in possession of the data, materials, or documents
30 to be disclosed by the department has twenty days from the receipt of
31 the written request required under (b) of this subsection to petition
32 the superior court of the county in which the petitioner resides for
33 injunctive relief. The court must limit or deny the request of the
34 department if the court determines that:

1 (i) The data, materials, or documents sought for disclosure are
2 cumulative or duplicative, or are obtainable from some other source
3 that is more convenient, less burdensome, or less expensive;

4 (ii) The production of the data, materials, or documents sought
5 would be unduly burdensome or expensive, taking into account the
6 needs of the department, the amount in controversy, limitations on
7 the petitioner's resources, and the importance of the issues at
8 stake; or

9 (iii) The data, materials, or documents sought for disclosure
10 contain trade secret information that, if disclosed, could harm the
11 petitioner.

12 (d) The department must reimburse reasonable expenses for the
13 production of data, materials, or documents incurred by the person in
14 possession of the data, materials, or documents to be disclosed.

15 (e) Requesting information under (b) of this subsection that may
16 indicate that a taxpayer is under investigation does not constitute a
17 disclosure of tax return or tax information under this section.

18 (5) Service of a subpoena issued under RCW 82.32.117 does not
19 constitute a disclosure of return or tax information under this
20 section. Notwithstanding anything else to the contrary in this
21 section, a person served with a subpoena under RCW 82.32.117 may
22 disclose the existence or content of the subpoena to that person's
23 legal counsel.

24 (6) Any person acquiring knowledge of any return or tax
25 information in the course of his or her employment with the
26 department of revenue and any person acquiring knowledge of any
27 return or tax information as provided under subsection (3) (e), (f),
28 (g), (h), (i), (m), (v), and (w) of this section, who discloses any
29 such return or tax information to another person not entitled to
30 knowledge of such return or tax information under the provisions of
31 this section, is guilty of a misdemeanor. If the person guilty of
32 such violation is an officer or employee of the state, such person
33 must forfeit such office or employment and is incapable of holding
34

1 any public office or employment in this state for a period of two
2 years thereafter.

3

4 **Sec. 54.** RCW 82.32.340 and 1989 c 78 s 3 are each amended to
5 read as follows:

6 (1) Any tax or penalty which the department of revenue deems to
7 be uncollectible may be transferred from accounts receivable to a
8 suspense account and cease to be accounted an asset. Any item
9 transferred shall continue to be a debt due the state from the
10 taxpayer and may at any time within twelve years from the filing of a
11 warrant covering such amount with the clerk of the superior court be
12 transferred back to accounts receivable for the purpose of
13 collection. The department of revenue may charge off as finally
14 uncollectible any tax or penalty which it deems uncollectible at any
15 time after twelve years from the date that the last tax return for
16 the delinquent taxpayer was or should have been filed if the
17 department of revenue is satisfied that there are no cost-effective
18 means of collecting the tax or penalty.

19 After any tax or penalty has been charged off as finally
20 uncollectible under the provisions of this section, the department of
21 revenue may destroy any or all files and records pertaining to the
22 liability of any taxpayer for such tax or penalty.

23 The department of revenue, subject to the approval of the state
24 records committee, may at the expiration of five years after the
25 close of any taxable year, destroy any or all files and records
26 pertaining to the tax liability of any taxpayer for such taxable
27 year, who has fully paid all taxes, penalties and interest for such
28 taxable year, or any preceding taxable year for which such taxes,
29 penalties and interest have been fully paid. In the event that such
30 files and records are reproduced on film pursuant to RCW 40.20.020
31 for use in accordance with RCW 40.20.030, the original files and
32 records may be destroyed immediately after reproduction and such
33 reproductions may be destroyed at the expiration of the above five-
34 year period, subject to the approval of the state records committee.

1 (2) Notwithstanding subsection (1) of this section, the
2 department may charge off any tax within its jurisdiction to collect
3 that is owed by a taxpayer, including any penalty or interest
4 thereon, if the department ascertains that the cost of collecting
5 that tax would be greater than the total amount which is owed or
6 likely in the near future to be owed by, and collectible from, the
7 taxpayer.

8
9 **Sec. 55.** RCW 82.32.350 and 2017 c 323 s 107 are each amended to
10 read as follows:

11 The department may enter into an agreement in writing with any
12 person relating to the liability of such person in respect of any tax
13 imposed by any of the preceding chapters of this title, or any tax in
14 respect to which this section is specifically made applicable, for
15 any taxable period or periods.

16
17 **Sec. 56.** RCW 82.32.360 and 1975 1st ex.s. c 278 s 93 are each
18 amended to read as follows:

19 Upon approval of such agreement, evidenced by execution thereof
20 by the department of revenue and the person so agreeing, the
21 agreement shall be final and conclusive as to tax liability or tax
22 immunity covered thereby, and, except upon a showing of fraud or
23 malfeasance, or of misrepresentation of a material fact:

24 (1) The case shall not be reopened as to the matters agreed upon,
25 or the agreement modified, by any officer, employee, or agent of the
26 state, or the taxpayer, and

27 (2) In any suit, action or proceeding, such agreement, or any
28 determination, assessment, collection, payment, abatement, refund, or
29 credit made in accordance therewith, shall not be annulled, modified,
30 set aside, or disregarded.

31
32 **Sec. 57.** RCW 82.32.380 and 1961 c 15 s 82.32.380 are each
33 amended to read as follows:

1 The state treasurer, upon receipt of any payments of tax,
2 penalty, interest, or fees collected hereunder shall deposit them to
3 the credit of the state general fund or such other fund as may be
4 provided by law.

5
6 **Sec. 58.** RCW 82.32.385 and 2022 c 182 s 301 are each amended to
7 read as follows:

8 (1) Beginning September 2019 and ending December 2019, by the
9 last day of September and December, the state treasurer must transfer
10 from the general fund to the connecting Washington account created in
11 RCW 46.68.395 \$13,680,000.

12 (2) Beginning March 2020 and ending June 2021, by the last day of
13 September, December, March, and June of each year, the state
14 treasurer must transfer from the general fund to the multimodal
15 transportation account created in RCW 47.66.070 \$13,680,000.

16 (3) Beginning September 2021 and ending June 2023, by the last
17 day of September, December, March, and June of each year, the state
18 treasurer must transfer from the general fund to the connecting
19 Washington account created in RCW 46.68.395 \$13,805,000.

20 (4) Beginning September 2023 and ending June 2025, by the last
21 day of September, December, March, and June of each year, the state
22 treasurer must transfer from the general fund to the connecting
23 Washington account created in RCW 46.68.395 \$13,987,000.

24 (5) Beginning September 2025 and ending June 2027, by the last
25 day of September, December, March, and June of each year, the state
26 treasurer must transfer from the general fund to the connecting
27 Washington account created in RCW 46.68.395 \$11,658,000.

28 (6) Beginning September 2027 and ending June 2029, by the last
29 day of September, December, March, and June of each year, the state
30 treasurer must transfer from the general fund to the connecting
31 Washington account created in RCW 46.68.395 \$7,564,000.

32 (7) Beginning September 2029 and ending June 2031, by the last
33 day of September, December, March, and June of each year, the state
34

1 treasurer must transfer from the general fund to the connecting
2 Washington account created in RCW 46.68.395 \$4,056,000.

3 (8) For fiscal year 2026 through fiscal year 2038, the state
4 treasurer must transfer from the general fund to the move ahead WA
5 flexible account created in RCW 46.68.520 \$31,000,000 each fiscal
6 year in four equal quarterly transfers. This amount represents the
7 estimated state sales and use tax generated from new transportation
8 projects and activities funded as a result of chapter 182, Laws of
9 2022.

10 (9) For fiscal year 2024 through fiscal year 2038, the state
11 treasurer must transfer from the general fund to the move ahead WA
12 flexible account created in RCW 46.68.520 \$57,000,000 each fiscal
13 year in four equal quarterly transfers.

14

15 **Sec. 59.** RCW 82.32.394 and 1998 c 115 s 7 are each amended to
16 read as follows:

17 The department of revenue shall deposit into the advanced
18 environmental mitigation revolving account, created in RCW 47.12.340,
19 all moneys received from the imposition on consumers of the taxes
20 under chapters 82.08 and 82.12 RCW on the sales or use of leaded
21 racing fuel which is exempted from the motor vehicle fuel tax under
22 *RCW 82.38.081.

23

24 **Sec. 60.** RCW 82.32.410 and 2005 c 274 s 362 are each amended to
25 read as follows:

26 (1) The director may designate certain written determinations as
27 precedents.

28 (a) By rule adopted pursuant to chapter 34.05 RCW, the director
29 shall adopt criteria which he or she shall use to decide whether a
30 determination is precedential. These criteria shall include, but not
31 be limited to, whether the determination clarifies an unsettled
32 interpretation of Title 82 RCW or where the determination modifies or
33 clarifies an earlier interpretation.

34

1 (b) Written determinations designated as precedents by the
2 director shall be made available for public inspection and shall be
3 published by the department.

4 (c) The department shall disclose any written determination upon
5 which it relies to support any assessment of tax, interest, or
6 penalty against such taxpayer, after making the deletions provided by
7 subsection (2) of this section.

8 (2) Before making a written determination available for public
9 inspection under subsection (1) of this section, the department shall
10 delete:

11 (a) The names, addresses, and other identifying details of the
12 person to whom the written determination pertains and of another
13 person identified in the written determination; and

14 (b) Information the disclosure of which is specifically
15 prohibited by any statute applicable to the department of revenue,
16 and the department may also delete other information exempted from
17 disclosure by chapter 42.56 RCW or any other statute applicable to
18 the department of revenue.

19

20 **Sec. 61.** RCW 82.32.430 and 2007 c 6 s 1501 are each amended to
21 read as follows:

22 (1) A person who collects and remits sales or use tax to the
23 department and who calculates the tax using geographic information
24 system technology developed and provided by the department shall be
25 held harmless and is not liable for the difference in amount due nor
26 subject to penalties or interest in regards to rate calculation
27 errors resulting from the proper use of such technology.

28 (2) Except as provided in subsection (3) of this section, the
29 department shall notify sellers who collect and remit sales or use
30 tax to the department of changes in boundaries and rates to taxes
31 imposed under the authority of chapter 82.14 RCW no later than sixty
32 days before the effective date of the change.

33 (3) The department shall notify sellers who collect and remit
34 sales or use tax to the department and make sales from printed

1 catalogs of changes, as to such sales, of boundaries and rates to
2 taxes imposed under the authority of chapter 82.14 RCW no later than
3 one hundred twenty days before the effective date of the change.

4 (4) Sellers who have not received timely notice of rate and
5 boundary changes under subsections (2) and (3) of this section due to
6 actions or omissions of the department are not liable for the
7 difference in the amount due until they have received the appropriate
8 period of notice. Purchasers are liable for any uncollected amounts
9 of tax.

10 (5)(a) Except as provided in (b) of this subsection, sellers
11 registered with the department under RCW 82.32.030(3) and certified
12 service providers must use the address-based geographic information
13 technology system developed and provided by the department to
14 calculate the tax to be collected and remitted to the department and
15 to determine the appropriate local jurisdictions entitled to the tax.

16 (b)(i) Upon a showing that using the address-based geographic
17 information technology system would cause undue hardship, a seller
18 may be temporarily held harmless and not liable for the difference in
19 amount due nor subject to penalties or interest in regards to rate
20 calculation errors resulting from the proper use of zip code-based
21 technology provided by the department for the period in which relief
22 is granted. The department shall notify local taxing jurisdictions of
23 the identity of sellers granted relief under this section and the
24 period for which relief is granted.

25 (ii) The department shall reimburse local taxing jurisdictions
26 for differences in amount due on account of such rate calculation
27 errors occurring during the period in which relief is granted.
28 Purchasers are liable for any uncollected amounts of tax. The
29 department shall retain amounts collected from purchasers that have
30 been reimbursed to local taxing jurisdictions under this subsection
31 (5)(b)(ii).

32
33 **Sec. 62.** RCW 82.32.440 and 2010 c 106 s 227 are each amended to
34 read as follows:

1 (1) The department is authorized to enter into agreements with
2 sellers who meet the criteria in this section for a project on sales
3 and use tax exemption requirements. This project will allow the use
4 of electronic data collection in lieu of paper certificates otherwise
5 required by law, including the use of electronic signatures.

6 (2) The object of the project is to determine whether using an
7 electronic system and reviewing the data regarding the exempt
8 transactions provides the same level of reliability as the current
9 system while lessening the burden on the seller.

10 (3) A business making both sales taxable and exempt under chapter
11 82.08 or 82.12 RCW, that has electronic data-collecting capabilities,
12 and that wishes to participate in the project may make application to
13 the department in such form and manner as the department may require.
14 To be eligible for such participation, a seller must demonstrate its
15 capability to take part in the project and to provide data to the
16 department in a form in which the data can be used by the department.
17 The department is not required to accept all applicants in this
18 project and is not required to provide any reason for not selecting a
19 participant. A seller selected as a participant may be relieved of
20 other sales and use tax exemption documentation requirements provided
21 by law as covered by the project.

22

23 **Sec. 63.** RCW 82.32.450 and 2001 c 214 s 12 are each amended to
24 read as follows:

25 (1) The total combined credits and deferrals that may be taken
26 under RCW 82.04.447, 82.12.024, and 82.16.0495 shall not exceed two
27 million five hundred thousand dollars in any fiscal year. Each person
28 is limited to no more than a total of one million five hundred
29 thousand dollars in tax deferred and credit allowed in any fiscal
30 year in which more than one person takes tax credits and claims tax
31 deferral. The department may require reporting of the credits taken
32 and amounts deferred in a manner and form as is necessary to keep a
33 running total of the amounts.

34

1 (2) Credits and deferred tax are available on a first-come basis.
2 Priority for tax credits and deferrals among approved applicants
3 shall be designated based on the first actual consumption of gas
4 under RCW 82.04.447 or 82.12.024, or on the first actual use of
5 electricity under RCW 82.16.0495, by each approved applicant. The
6 department shall disallow any credits or deferred tax, or portion
7 thereof, that would cause the total amount of credits taken and
8 deferred taxes claimed to exceed the fiscal year cap or to exceed the
9 per person fiscal year cap. If the fiscal cap is reached or
10 exceeded[,] the department shall notify those persons who have
11 approved applications under RCW 82.04.447, 82.12.024, and 82.16.0495
12 that no more credits may be taken or tax deferred during the
13 remainder of the fiscal year. In addition, the department shall
14 provide written notice to any person who has taken any tax credits or
15 claimed any deferred tax in excess of the fiscal year cap. The notice
16 shall indicate the amount of tax due and shall provide that the tax
17 be paid within thirty days from the date of such notice.

18 (3) No portion of an application for credit or deferral
19 disallowed under this section may be carried back or carried forward
20 nor may taxes ineligible for credit or deferral due to the fiscal cap
21 having been reached or exceeded be carried forward or carried
22 backward.

23

24 **Sec. 64.** RCW 82.32.470 and 2002 c 56 s 407 are each amended to
25 read as follows:

26 (1) The tax imposed and collected under chapters 82.08 and 82.12
27 RCW, less any credits allowed under chapter 82.14 RCW, on initial
28 construction for a transportation project to be constructed under
29 chapter 36.120 RCW, must be transferred to the transportation project
30 to defray costs or pay debt service on that transportation project.
31 In the case of a toll project, this transfer or credit must be used
32 to lower the overall cost of the project and thereby the
33 corresponding tolls.

34

1 (2) This transaction is exempt from the requirements in *RCW
2 43.135.035(4).

3 (3) Government entities constructing transportation projects
4 under chapter 36.120 RCW shall report to the department the amount of
5 state sales or use tax covered under this section.

6
7 **Sec. 65.** RCW 82.32.480 and 2010 c 106 s 105 are each amended to
8 read as follows:

9 The forest products commission, created pursuant to chapter
10 15.100 RCW, constitutes a state agency for purposes of applying the
11 exemption contained in RCW 82.32.330(3)(e) for the disclosure of
12 taxpayer information by the department. Disclosure of return or tax
13 information may be made only to employees of the commission and not
14 to commission members. Employees are authorized to use this
15 information in accordance with RCW 15.100.100(4). Employees are
16 subject to all civil and criminal penalties provided under RCW
17 82.32.330 for disclosures made to another person not entitled under
18 the provisions of this section or RCW 15.100.100 to knowledge of such
19 information.

20
21 **Sec. 66.** RCW 82.32.490 and 2002 c 67 s 11 are each amended to
22 read as follows:

23 (1)(a) The department may provide an electronic database as
24 described in this section to a mobile telecommunications service
25 provider, or if the department does not provide an electronic
26 database to mobile telecommunications service providers, then the
27 designated database provider may provide an electronic database to a
28 mobile telecommunications service provider.

29 (b)(i) An electronic database, whether provided by the department
30 or the designated database provider, shall be provided in a format
31 approved by the American national standards institute's accredited
32 standards committee X12, that after allowing for de minimis
33 deviations, designates for each street address in the state,
34 including to the extent practicable, any multiple postal street

1 addresses applicable to one street location, the appropriate taxing
2 jurisdictions, and the appropriate code for each taxing jurisdiction,
3 for each level of taxing jurisdiction, identified by one nationwide
4 standard numeric code.

5 (ii) An electronic database shall also provide the appropriate
6 code for each street address with respect to political subdivisions
7 that are not taxing jurisdictions when reasonably needed to determine
8 the proper taxing jurisdiction.

9 (iii) The nationwide standard numeric codes shall contain the
10 same number of numeric digits with each digit or combination of
11 digits referring to the same level of taxing jurisdiction throughout
12 the United States using a format similar to FIPS 55-3 or other
13 appropriate standard approved by the federation of tax administrators
14 and the multistate tax commission, or their successors. Each address
15 shall be provided in standard postal format.

16 (2) The department or designated database provider, as
17 applicable, that provides or maintains an electronic database
18 described in subsection (1) of this section shall provide notice of
19 the availability of the then-current electronic database, and any
20 subsequent revisions, by publication in the manner normally employed
21 for the publication of informational tax, charge, or fee notices to
22 taxpayers in the state.

23 (3) A mobile telecommunications service provider using the data
24 contained in an electronic database described in subsection (1) of
25 this section shall be held harmless from any tax, charge, or fee
26 liability that otherwise would be due solely as a result of any error
27 or omission in the database provided by the department or designated
28 database provider. The mobile telecommunications service provider
29 shall reflect changes made to the database during a calendar quarter
30 not later than thirty days after the end of the calendar quarter if
31 the department or designated database provider, as applicable, has
32 issued notice of the availability of an electronic database
33 reflecting the changes under subsection (2) of this section.

34

1 **Sec. 67.** RCW 82.32.495 and 2002 c 67 s 12 are each amended to
2 read as follows:

3 (1) If neither the department nor the designated database
4 provider provides an electronic database under RCW 82.32.490, a
5 mobile telecommunications service provider shall be held harmless
6 from any tax, charge, or fee liability in any taxing jurisdiction in
7 this state that otherwise would be due solely as a result of an
8 assignment of a street address to an incorrect taxing jurisdiction
9 if, subject to RCW 82.32.500, the home service provider employs an
10 enhanced zip code to assign each street address to a specific taxing
11 jurisdiction for each level of taxing jurisdiction and exercises due
12 diligence at each level of taxing jurisdiction to ensure that each
13 street address is assigned to the correct taxing jurisdiction. If an
14 enhanced zip code overlaps boundaries of taxing jurisdictions of the
15 same level, the home service provider must designate one specific
16 jurisdiction within the enhanced zip code for use in taxing the
17 activity for such enhanced zip code for each level of taxing
18 jurisdiction. Any enhanced zip code assignment changed in accordance
19 with RCW 82.32.500 is deemed to be in compliance with this section.
20 For purposes of this section, there is a rebuttable presumption that
21 a home service provider has exercised due diligence if the home
22 service provider demonstrates that it has:

23 (a) Expended reasonable resources to implement and maintain an
24 appropriately detailed electronic database of street address
25 assignments to taxing jurisdictions;

26 (b) Implemented and maintained reasonable internal controls to
27 correct misassignments of street addresses to taxing jurisdictions
28 promptly; and

29 (c) Used all reasonably obtainable and usable data pertaining to
30 municipal annexations, incorporations, reorganizations, and any other
31 changes in jurisdictional boundaries that materially affect the
32 accuracy of the database.

33 (2) Subsection (1) of this section applies to a mobile
34 telecommunications service provider that is in compliance with the

1 requirements of subsection (1) of this section, if in this state an
2 electronic database has not been provided under RCW 82.32.490, until
3 the later of:

4 (a) Eighteen months after the nationwide standard numeric code
5 described in RCW 82.32.490(1) has been approved by the federation of
6 tax administrators and the multistate tax commission; or

7 (b) Six months after the department or a designated database
8 provider in this state provides the database as prescribed in RCW
9 82.32.490(1).

10

11 **Sec. 68.** RCW 82.32.500 and 2002 c 67 s 13 are each amended to
12 read as follows:

13 A taxing jurisdiction, or the department on behalf of any taxing
14 jurisdiction or taxing jurisdictions within this state, may:

15 (1) Determine that the address used for purposes of determining
16 the taxing jurisdictions to which taxes, charges, or fees for mobile
17 telecommunications services are remitted does not meet the definition
18 of place of primary use in RCW 82.04.065 and give binding notice to
19 the home service provider to change the place of primary use on a
20 prospective basis from the date of notice of determination. If the
21 authority making the determination is not the department, the taxing
22 jurisdiction must obtain the consent of all affected taxing
23 jurisdictions within the state before giving the notice of
24 determination. Before the taxing jurisdiction gives the notice of
25 determination, the customer must be given an opportunity to
26 demonstrate, in accordance with applicable state or local tax,
27 charge, or fee administrative procedures, that the address is the
28 customer's place of primary use; and

29 (2) Determine that the assignment of a taxing jurisdiction by a
30 home service provider under RCW 82.32.495 does not reflect the
31 correct taxing jurisdiction and give binding notice to the home
32 service provider to change the assignment on a prospective basis from
33 the date of notice of determination. If the authority making the
34 determination is not the department, the taxing jurisdiction must

1 obtain the consent of all affected taxing jurisdictions within the
2 state before giving the notice of determination. The home service
3 provider must be given an opportunity to demonstrate, in accordance
4 with applicable state or local tax, charge, or fee administrative
5 procedures, that the assignment reflects the correct taxing
6 jurisdiction.

7

8 **Sec. 69.** RCW 82.32.505 and 2002 c 67 s 14 are each amended to
9 read as follows:

10 (1) A home service provider is responsible for obtaining and
11 maintaining information regarding the customer's place of primary use
12 as defined in RCW 82.04.065. Subject to RCW 82.32.500, and if the
13 home service provider's reliance on information provided by its
14 customer is in good faith, a taxing jurisdiction shall:

15 (a) Allow a home service provider to rely on the applicable
16 residential or business street address supplied by the home service
17 provider's customer; and

18 (b) Not hold a mobile telecommunications service provider liable
19 for any additional taxes, charges, or fees based on a different
20 determination of the place of primary use.

21 (2) Except as provided in RCW 82.32.500, a taxing jurisdiction
22 shall allow a home service provider to treat the address used by the
23 home service provider for tax purposes for any customer under a
24 service contract or agreement in effect on August 1, 2002, as that
25 customer's place of primary use for the remaining term of the service
26 contract or agreement, excluding any extension or renewal of the
27 service contract or agreement, for purposes of determining the taxing
28 jurisdictions to which taxes, charges, or fees on charges for mobile
29 telecommunications services are remitted.

30

31 **Sec. 70.** RCW 82.32.510 and 2002 c 67 s 15 are each amended to
32 read as follows:

33 (1) Chapter 67, Laws of 2002 does not modify, impair, supersede,
34 or authorize the modification, impairment, or supersession of any law

1 allowing a taxing jurisdiction to collect a tax, charge, or fee from
2 a customer that has failed to provide its place of primary use.

3 (2) If a taxing jurisdiction does not otherwise subject charges
4 for mobile telecommunications services to taxation and if these
5 charges are aggregated with and not separately stated from charges
6 that are subject to taxation, then the charges for nontaxable mobile
7 telecommunications services may be subject to taxation unless the
8 mobile telecommunications service provider can reasonably identify
9 charges not subject to the tax, charge, or fee from its books and
10 records that are kept in the regular course of business.

11 (3) If a taxing jurisdiction does not subject charges for mobile
12 telecommunications services to taxation, a customer may not rely upon
13 the nontaxability of charges for mobile telecommunications services
14 unless the customer's home service provider separately states the
15 charges for nontaxable mobile telecommunications services from
16 taxable charges or the home service provider elects, after receiving
17 a written request from the customer in the form required by the
18 provider, to provide verifiable data based upon the home service
19 provider's books and records that are kept in the regular course of
20 business that reasonably identifies the nontaxable charges.

21

22 **Sec. 71.** RCW 82.32.515 and 2002 c 67 s 17 are each amended to
23 read as follows:

24 The definitions in RCW 82.04.065 apply to RCW 82.32.490 through
25 82.32.510 and 35.21.873.

26

27 **Sec. 72.** RCW 82.32.520 and 2010 c 106 s 228 are each amended to
28 read as follows:

29 (1) Except for the defined telecommunications services listed in
30 subsection (3) of this section, the sale of telecommunications
31 service as defined in RCW 82.04.065 sold on a call-by-call basis is
32 sourced to (a) each level of taxing jurisdiction where the call
33 originates and terminates in that jurisdiction or (b) each level of

34

1 taxing jurisdiction where the call either originates or terminates
2 and in which the service address is also located.

3 (2) Except for the defined telecommunications services listed in
4 subsection (3) of this section, a sale of telecommunications service
5 as defined in RCW 82.04.065 sold on a basis other than a call-by-call
6 basis, is sourced to the customer's place of primary use.

7 (3) The sales of telecommunications service as defined in RCW
8 82.04.065 that are listed in subsection (3) of this section is
9 sourced to each level of taxing jurisdiction as follows:

10 (a) A sale of mobile telecommunications services, other than air-
11 ground radiotelephone service and prepaid calling service, is sourced
12 to the customer's place of primary use as required by RCW 82.08.066.

13 (b) A sale of postpaid calling service is sourced to the
14 origination point of the telecommunications signal as first
15 identified by either (i) the seller's telecommunications system, or
16 (ii) information received by the seller from its service provider,
17 where the system used to transport such signals is not that of the
18 seller.

19 (c) A sale of prepaid calling service or a sale of a prepaid
20 wireless calling service is sourced as follows:

21 (i) When a prepaid calling service or a prepaid wireless calling
22 service is received by the purchaser at a business location of the
23 seller, the sale is sourced to that business location;

24 (ii) When a prepaid calling service or a prepaid wireless calling
25 service is not received by the purchaser at a business location of
26 the seller, the sale is sourced to the location where receipt by the
27 purchaser or the purchaser's donee, designated as such by the
28 purchaser, occurs, including the location indicated by instructions
29 for delivery to the purchaser or donee, known to the seller;

30 (iii) When (c)(i) and (ii) of this subsection do not apply, the
31 sale is sourced to the location indicated by an address for the
32 purchaser that is available from the business records of the seller
33 that are maintained in the ordinary course of the seller's business
34 when use of this address does not constitute bad faith;

1 (iv) When (c)(i), (ii), and (iii) of this subsection do not
2 apply, the sale is sourced to the location indicated by an address
3 for the purchaser obtained during the consummation of the sale,
4 including the address of a purchaser's payment instrument, if no
5 other address is available, when use of this address does not
6 constitute bad faith;

7 (v) When (c)(i), (ii), (iii), and (iv) of this subsection do not
8 apply, including the circumstance where the seller is without
9 sufficient information to apply those provisions, the sale is sourced
10 as provided in RCW 82.32.730(1)(e);

11 (vi) In the case of a sale of prepaid wireless calling service,
12 (c)(v) of this subsection includes as an option the location
13 associated with the mobile telephone number.

14 (d) A sale of a private communication service is sourced as
15 follows:

16 (i) Service for a separate charge related to a customer channel
17 termination point is sourced to each level of jurisdiction in which
18 such customer channel termination point is located.

19 (ii) Service where all customer termination points are located
20 entirely within one jurisdiction or levels of jurisdiction is sourced
21 in such jurisdiction in which the customer channel termination points
22 are located.

23 (iii) Service for segments of a channel between two customer
24 channel termination points located in different jurisdictions and
25 which segment of channel are separately charged is sourced fifty
26 percent in each level of jurisdiction in which the customer channel
27 termination points are located.

28 (iv) Service for segments of a channel located in more than one
29 jurisdiction or levels of jurisdiction and which segments are not
30 separately billed is sourced in each jurisdiction based on the
31 percentage determined by dividing the number of customer channel
32 termination points in the jurisdiction by the total number of
33 customer channel termination points.

34

1 (4) The definitions in this subsection apply throughout this
2 chapter.

3 (a) "Air-ground radiotelephone service" means air-ground radio
4 service, as defined in 47 C.F.R. Sec. 22.99, as amended or renumbered
5 as of January 1, 2003, in which common carriers are authorized to
6 offer and provide radio telecommunications service for hire to
7 subscribers in aircraft.

8 (b) "Call-by-call basis" means any method of charging for
9 telecommunications services where the price is measured by individual
10 calls.

11 (c) "Communications channel" means a physical or virtual path of
12 communications over which signals are transmitted between or among
13 customer channel termination points.

14 (d) "Customer" means the person or entity that contracts with the
15 seller of telecommunications services. If the end user of
16 telecommunications services is not the contracting party, the end
17 user of the telecommunications service is the customer of the
18 telecommunications service. "Customer" does not include a reseller of
19 telecommunications service or for mobile telecommunications service
20 of a serving carrier under an agreement to serve the customer outside
21 the home service provider's licensed service area.

22 (e) "Customer channel termination point" means the location where
23 the customer either inputs or receives the communications.

24 (f) "End user" means the person who uses the telecommunications
25 service. In the case of an entity, the term end user means the
26 individual who uses the service on behalf of the entity.

27 (g) "Home service provider" means the same as that term is
28 defined in RCW 82.04.065.

29 (h) "Mobile telecommunications service" means the same as that
30 term is defined in RCW 82.04.065.

31 (i) "Place of primary use" means the street address
32 representative of where the customer's use of the telecommunications
33 service primarily occurs, which must be the residential street
34 address or the primary business street address of the customer. In

1 the case of mobile telecommunications services, "place of primary
2 use" must be within the licensed service area of the home service
3 provider.

4 (j) "Postpaid calling service" means the telecommunications
5 service obtained by making a payment on a call-by-call basis either
6 through the use of a credit card or payment mechanism such as a bank
7 card, travel card, credit card, or debit card, or by charge made to a
8 telephone number that is not associated with the origination or
9 termination of the telecommunications service. A postpaid calling
10 service includes a telecommunications service, except a prepaid
11 wireless calling service, that would be a prepaid calling service
12 except it is not exclusively a telecommunications service.

13 (k) "Prepaid calling service" means the right to access
14 exclusively telecommunications services, which must be paid for in
15 advance and which enables the origination of calls using an access
16 number and/or authorization code, whether manually or electronically
17 dialed, and that is sold in predetermined units or dollars of which
18 the number declines with use in a known amount.

19 (l) "Prepaid wireless calling service" means a telecommunications
20 service that provides the right to use mobile wireless service as
21 well as other nontelecommunications services, including the download
22 of digital products delivered electronically, content, and ancillary
23 services, which must be paid for in advance that is sold in
24 predetermined units or dollars of which the number declines with use
25 in a known amount.

26 (m) "Private communication service" means a telecommunications
27 service that entitles the customer to exclusive or priority use of a
28 communications channel or group of channels between or among
29 termination points, regardless of the manner in which such channel or
30 channels are connected, and includes switching capacity, extension
31 lines, stations, and any other associated services that are provided
32 in connection with the use of such channel or channels.

33 (n) "Service address" means:
34

1 (i) The location of the telecommunications equipment to which a
2 customer's call is charged and from which the call originates or
3 terminates, regardless of where the call is billed or paid;

4 (ii) If the location in (n)(i) of this subsection is not known,
5 the origination point of the signal of the telecommunications
6 services first identified by either the seller's telecommunications
7 system or in information received by the seller from its service
8 provider, where the system used to transport such signals is not that
9 of the seller;

10 (iii) If the locations in (n)(i) and (ii) of this subsection are
11 not known, the location of the customer's place of primary use.

12

13 **Sec. 73.** RCW 82.32.525 and 2004 c 153 s 408 are each amended to
14 read as follows:

15 (1) A purchaser's cause of action against the seller for over-
16 collected sales or use tax does not accrue until the purchaser has
17 provided written notice to the seller and the seller has sixty days
18 to respond. The notice to the seller must contain the information
19 necessary to determine the validity of the request.

20 (2) In connection with a purchaser's request from a seller for
21 over-collected sales or use taxes, a seller shall be presumed to have
22 a reasonable business practice, if in the collection of such sales or
23 use taxes, the seller:

24 (a) Uses either a provider or a system, including a proprietary
25 system, that is certified by the state; and

26 (b) Has remitted to the state all taxes collected less any
27 deductions, credits, or collection allowances.

28

29 **Sec. 74.** RCW 82.32.530 and 2004 c 153 s 404 are each amended to
30 read as follows:

31 The department may not use registration under the streamlined
32 sales and use tax agreement and collection of sales and use taxes in
33 member states as a factor in determining whether the seller has nexus
34 with Washington for any tax at any time.

1 **Sec. 75.** RCW 82.32.531 and 2016 c 137 s 3 are each amended to
2 read as follows:

3 (1) For purposes of the taxes imposed or authorized under
4 chapters 82.04, 82.08, 82.12, and 82.14 RCW, the department may not
5 make a determination of nexus based solely on the attendance or
6 participation of one or more representatives of a person at a single
7 trade convention per year in Washington state in determining if such
8 person is physically present in this state for the purposes of
9 establishing substantial nexus with this state.

10 (2) Subsection (1) of this section does not apply to persons
11 making retail sales at a trade convention, including persons taking
12 orders for products or services where receipt will occur in
13 Washington state.

14 (3) The definitions in this subsection apply throughout this
15 section unless the context clearly requires otherwise.

16 (a) "Not marketed to the general public" means that the sponsor
17 of a trade convention limits its marketing efforts for the trade
18 convention to its members and specific invited guests of the
19 sponsoring organization.

20 (b) "Physically present in this state" and "substantial nexus
21 with this state" have the same meaning as provided in RCW 82.04.067.

22 (c) "Trade convention" means an exhibition for a specific
23 industry or profession, which is not marketed to the general public,
24 for the purposes of:

25 (i) Exhibiting, demonstrating, and explaining services, products,
26 or equipment to potential customers; or

27 (ii) The exchange of information, ideas, and attitudes in regards
28 to that industry or profession.

29

30 **Sec. 76.** RCW 82.32.532 and 2010 c 111 s 701 are each amended to
31 read as follows:

32 (1) For purposes of the taxes imposed in this title, the
33 department of revenue may not consider a person's ownership of, or
34 rights in, computer software as defined in RCW 82.04.215, including

1 computer software used in providing a digital automated service;
2 master copies of software; digital goods or digital codes residing on
3 servers located in this state in determining whether the person has
4 substantial nexus with this state.

5 (2) For purposes of this section, "substantial nexus" means the
6 requisite connection that a person has with a state to allow the
7 state to subject the person to the state's taxing authority,
8 consistent with the commerce clause of the United States
9 Constitution.

10

11 **Sec. 77.** RCW 82.32.533 and 2010 c 111 s 801 are each amended to
12 read as follows:

13 (1) Except as provided in subsection (2) of this section, no
14 person may be held liable for the failure to collect or pay state and
15 local sales and use taxes accrued before July 26, 2009, on the sale
16 or use of digital goods or of services defined as a retail sale in
17 RCW 82.04.050(2)(a) and rendered in respect to digital goods.

18 (2) Subsection (1) of this section does not relieve any person
19 from liability for state and local sales taxes that the person
20 collected from buyers but did not remit to the department of revenue.

21 (3) Nothing in this section may be construed as authorizing the
22 refund of state and local sales and use taxes properly paid on the
23 sale or use, before July 26, 2009, of digital goods or of services
24 defined as a retail sale in RCW 82.04.050(2)(a) and rendered in
25 respect to digital goods.

26 (4) A person is not entitled to a credit or refund of any
27 business and occupation tax paid in excess of that properly due as a
28 result of the person paying tax on its income earned from the sale of
29 eligible digital products and services at the tax rate provided in
30 RCW 82.04.290(2)(a) rather than the tax rate provided in RCW
31 82.04.250(1), unless the person requesting the credit or refund has
32 paid the proper amount of state and local sales taxes due on the
33 sales of the eligible digital products and services that generated
34 the income in respect to which the business and occupation tax credit

1 or refund is sought. For purposes of this subsection, "eligible
2 digital products and services" means: (a) Digital goods; and (b)
3 services defined as a retail sale in RCW 82.04.050(2)(a) and rendered
4 in respect to digital goods.

5 (5) For purposes of this section, "digital goods" has the same
6 meaning as in RCW 82.04.192.

7

8 **Sec. 78.** RCW 82.32.534 and 2022 c 56 s 10 are each amended to
9 read as follows:

10 (1)(a)(i) Beginning in calendar year 2018, every person claiming
11 a tax preference that requires an annual tax performance report under
12 this section must file a complete annual report with the department.
13 The report is due by May 31st of the year following any calendar year
14 in which a person becomes eligible to claim the tax preference that
15 requires a report under this section.

16 (ii) If the tax preference is a deferral of tax, the first annual
17 tax performance report must be filed by May 31st of the calendar year
18 following the calendar year in which the investment project is
19 certified by the department as operationally complete. An annual tax
20 performance report must also be filed by May 31st of each succeeding
21 calendar year through the calendar year in which the deferred taxes
22 are fully repaid or are immediately due and payable because the
23 recipient of the deferral is no longer eligible for the deferral.

24 (iii) The department may extend the due date for timely filing of
25 annual reports under this section as provided in RCW 82.32.590.

26 (b) The report must include information detailing employment and
27 wages for employment positions in Washington for the year that the
28 tax preference was claimed. However, persons engaged in manufacturing
29 commercial airplanes or components of such airplanes may report
30 employment and wage information per job at the manufacturing site for
31 the year that the tax preference was claimed. The report must not
32 include names of employees. The report must also detail employment by
33 the total number of full-time, part-time, and temporary positions for
34 the year that the tax preference was claimed. In lieu of reporting

1 employment and wage data required under this subsection, taxpayers
2 may instead opt to allow the employment security department to
3 release the same employment and wage information from unemployment
4 insurance records to the department and the joint legislative audit
5 and review committee. This option is intended to reduce the reporting
6 burden for taxpayers, and each taxpayer electing to use this option
7 must affirm that election in accordance with procedures approved by
8 the employment security department.

9 (c) Persons receiving the benefit of the tax preference provided
10 by RCW 82.16.0421 or claiming any of the tax preferences provided by
11 RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5)
12 must indicate on the annual report the quantity of product produced
13 in this state during the time period covered by the report.

14 (d) If a person filing a report under this section did not file a
15 report with the department in the previous calendar year, the report
16 filed under this section must also include employment and wage
17 information for the calendar year immediately preceding the calendar
18 year for which a tax preference was claimed.

19 (2)(a) As part of the annual report, the department and the joint
20 legislative audit and review committee may request additional
21 information necessary to measure the results of, or determine
22 eligibility for, the tax preference.

23 (b) The report must include the amount of the tax preference
24 claimed for the calendar year covered by the report. For a person
25 that claimed an exemption provided in RCW 82.08.025651 or
26 82.12.025651, the report must include the amount of tax exempted
27 under those sections in the prior calendar year for each general area
28 or category of research and development for which exempt machinery
29 and equipment and labor and services were acquired in the prior
30 calendar year.

31 (3) Other than information requested under subsection (2)(a) of
32 this section, the information contained in an annual report filed
33 under this section is not subject to the confidentiality provisions
34 of RCW 82.32.330 and may be disclosed to the public upon request.

1 (4)(a) Except as otherwise provided by law, if a person claims a
2 tax preference that requires an annual report under this section but
3 fails to submit a complete report by the due date or any extension
4 under RCW 82.32.590, the department must declare:

5 (i) Thirty-five percent of the amount of the tax preference
6 claimed for the previous calendar year to be immediately due and
7 payable;

8 (ii) An additional fifteen percent of the amount of the tax
9 preference claimed for the previous calendar year to be immediately
10 due and payable if the person has previously been assessed under this
11 subsection (4) for failure to submit a report under this section for
12 the same tax preference; and

13 (iii) If the tax preference is a deferral of tax, the amount
14 immediately due under this subsection is the deferred tax divided by
15 the number of years in the repayment period. If the economic benefits
16 of the deferral are passed to a lessee, the lessee is responsible for
17 payment to the extent the lessee has received the economic benefit.

18 (b) The department may not assess interest or penalties on
19 amounts due under this subsection.

20 (5) The department must use the information from this section to
21 prepare summary descriptive statistics by category. No fewer than
22 three taxpayers may be included in any category. The department must
23 report these statistics to the legislature each year by December
24 31st.

25 (6) For the purposes of this section:

26 (a) "Person" has the meaning provided in RCW 82.04.030 and also
27 includes the state and its departments and institutions.

28 (b) "Tax preference" has the meaning provided in RCW 43.136.021
29 and includes only the tax preferences requiring a report under this
30 section.

31

32 **Sec. 79.** RCW 82.32.537 and 2017 3rd sp.s. c 37 s 708 are each
33 amended to read as follows:

34

1 (1)(a) A silicon smelter operated by a person required to submit
2 an annual survey or report under RCW 82.16.315, 82.04.545, or
3 82.12.022 must repay an amount equal to the entire economic benefit
4 accruing to the person for the previous two calendar years due to the
5 tax preferences under RCW 82.16.315, 82.04.545, or 82.12.022 if:

6 (i) The average number of employment positions at a silicon
7 smelter operated by the person is less than one hundred employment
8 positions, as reported to the employment security department for the
9 previous two calendar years; and

10 (ii) The average annual wage for all employment positions is
11 equal to or less than the average annual wage for the county in which
12 the silicon smelter operation is located for the previous two
13 calendar years. The department must use the finalized 2015 county
14 wage data from the census of employment and wages as reported by the
15 employment security department.

16 (b) The department must make the determinations under (a)(i) and
17 (ii) of this subsection (1) by August 31, 2023.

18 (2) If any tax preference amounts must be repaid under subsection
19 (1) of this section, the department must declare the tax preference
20 amounts to be immediately due and payable. The department must assess
21 interest, but not penalties, on the amounts due under this
22 subsection. The department must assess interest at the rate provided
23 for delinquent taxes under this chapter, retroactively to the date
24 the tax preference was claimed, and such interest accrues until the
25 tax preference amounts are repaid.

26 (3) If any tax preference amounts must be repaid under subsection
27 (1) of this section, the person may not continue to benefit from the
28 tax preferences under RCW 82.16.315, 82.04.545, or 82.12.022.

29

30 **Sec. 80.** RCW 82.32.550 and 2010 1st sp.s. c 23 s 517 are each
31 amended to read as follows:

32 (1) "Commercial airplane" has its ordinary meaning, which is an
33 airplane certified by the federal aviation administration for
34

1 transporting persons or property, and any military derivative of such
2 an airplane.

3 (2) "Component" means a part or system certified by the federal
4 aviation administration for installation or assembly into a
5 commercial airplane.

6 (3) "Superefficient airplane" means a twin aisle airplane that
7 carries between two hundred and three hundred fifty passengers, with
8 a range of more than seven thousand two hundred nautical miles, a
9 cruising speed of approximately mach .85, and that uses fifteen to
10 twenty percent less fuel than other similar airplanes on the market.

11

12 **Sec. 81.** RCW 82.32.555 and 2007 c 54 s 21 are each amended to
13 read as follows:

14 If a taxing jurisdiction does not subject some charges for
15 ancillary services or telecommunications service, as those terms are
16 defined in RCW 82.04.065, to taxation, but these charges are
17 aggregated with and not separately stated from charges that are
18 subject to taxation, then the charges for nontaxable ancillary
19 services or telecommunications service, as those terms are defined in
20 RCW 82.04.065, may be subject to taxation unless the
21 telecommunications service provider or ancillary services provider
22 can reasonably identify charges not subject to the tax, charge, or
23 fee from its books and records that are kept in the regular course of
24 business and for purposes other than merely allocating the sales
25 price of an aggregated charge to the individually aggregated items.

26

27 **Sec. 82.** RCW 82.32.558 and 2019 c 347 s 2 are each amended to
28 read as follows:

29 (1) Until October 1, 2019, a qualifying business may apply for a
30 deferral of taxes on an eligible project. Application must be made to
31 the department in a form and manner prescribed by the department. The
32 application must contain information regarding the location of the
33 project, estimated or actual costs of the project, time schedules for
34 completion and operation of the project, and other information

1 required by the department. The department must rule on the
2 application within sixty days.

3 (2) If the department approves an application for a deferral of
4 taxes under this section, the department must issue a sales and use
5 tax deferral certificate for state and local sales and use taxes due
6 under chapters 82.08, 82.12, 82.14, and 81.104 RCW. This certificate
7 expires on the date the eligible project becomes operationally
8 complete. The certificate may only be used for sales and use tax
9 liability incurred after the date the department issued the
10 certificate.

11 (3) A recipient of a certificate must notify the department when
12 its eligible project is operationally complete. The department must
13 review the qualifying business's records after the eligible project
14 is operationally complete to ensure the correct amount of taxes has
15 been reported and will be repaid.

16 (4)(a) For local sales and use taxes, the recipient of the
17 certificate must begin paying deferred sales and use taxes in the
18 first calendar year after the date certified by the department as the
19 date on which the eligible project is operationally complete. The
20 first payment is due on January 1st of the first calendar year after
21 such certified date, with subsequent annual payments due on January
22 1st of the following seven years. Each payment must equal twelve and
23 one-half percent of the tax due plus interest.

24 (b) For state sales and use taxes, the recipient of the
25 certificate must repay all deferred state sales and use taxes by June
26 30, 2023.

27 (c) The department must assess interest, but not penalties, on
28 the deferred taxes. The interest must be assessed at the rate
29 provided for delinquent taxes under this chapter, retroactively to
30 the date the project was certified to be operationally complete, and
31 will accrue until the deferred taxes are repaid.

32 (5) The department may authorize an accelerated repayment
33 schedule upon request of the qualifying business.

34

1 (6) The debt for taxes due is not extinguished by insolvency or
2 other failure of the qualifying business. Transfer of ownership does
3 not terminate the deferral if the transferee agrees in writing to be
4 bound by the requirements of this section and receives approval from
5 the department. If the department approves the transfer of the
6 deferral to a transferee, such approval not to be unreasonably
7 withheld, conditioned, or delayed, the transferee is solely liable
8 for repayment of the deferred taxes.

9 (7) If the eligible project is not operationally complete within
10 three calendar years from the date that the department issued the
11 certificate for the project, or if at any time the department finds
12 that the project is not eligible for a deferral under this section,
13 the amount of taxes outstanding for the project is immediately due
14 and payable. If taxes must be repaid under this subsection, the
15 department must assess interest at the rate provided for delinquent
16 taxes under this chapter retroactively to the date of issuance of the
17 certificate, but not penalties, on amounts due under this subsection.

18 (8) Applications and any other information received by the
19 department under this section are not confidential under RCW
20 82.32.330. This chapter applies to the administration of this
21 section.

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

24 (a) "Eligible project" means a project consisting of either or
25 both (i) a qualifying arena, associated parking structures, plazas,
26 public spaces, and one or more tunnels connecting the arena and
27 parking structures, or (ii) an ice hockey practice facility.

28 (b) "Ice hockey practice facility" means one or more contiguous
29 structures of up to two hundred thousand square feet located within
30 ten miles of a qualifying arena that (i) contains at least three ice
31 rinks, and (ii) is being developed to attract a professional ice
32 hockey franchise. An "ice hockey practice facility" may include ice
33 rinks, spectator viewing locations, locker rooms, strength and
34 conditioning rooms, administrative offices, retail space, food

1 service facilities, and other amenities related to the operation of a
2 state-of-the-art ice hockey center.

3 (c) "Operationally complete" means the project is capable of
4 being used for its intended purpose as described in the application.

5 (d) "Personal property" means tangible personal property with a
6 useful life of one year or more that is used in the operation of the
7 eligible project.

8 (e) "Project" means the construction of new improvements, the
9 renovation of existing improvements, the acquisition and installation
10 of fixtures that are permanently affixed to and become a physical
11 part of those improvements, personal property, and site preparation.
12 "Project" includes materials used and labor and services rendered in
13 respect to the planning, site preparation, construction, renovation,
14 and installation.

15 (f) "Qualifying arena" means a multipurpose sports and
16 entertainment facility owned by the largest city in a county with a
17 population of at least one million five hundred thousand that is
18 being redeveloped to attract professional ice hockey and basketball
19 league franchises.

20 (g) "Qualifying business" means a business entity that exists for
21 the primary purpose of engaging in commercial activity for profit and
22 has entered into a lease or occupancy agreement with the fee owner of
23 a qualifying arena and/or ice hockey practice facility to engage in
24 the development of an eligible project.

25 (h) "Site preparation" includes soil testing, site clearing and
26 grading, demolition, or any other related activities that are
27 initiated before construction.

28 (10) This section expires January 1, 2030.

29

30 **Sec. 83.** RCW 82.32.559 and 2021 c 178 s 1 are each amended to
31 read as follows:

32 (1) The state treasurer must deposit the repayment of deferred
33 state sales and use taxes due under RCW 82.32.558 into the general
34 fund.

1 (2)(a) Subject to the requirements provided in (b) of this
2 subsection (2), the state treasurer must deposit deferred local sales
3 and use taxes due under RCW 82.32.558 into the local sales and use
4 tax account created in RCW 82.14.050.

5 (b) Half of the repayment of deferred local sales and use taxes
6 due under RCW 82.32.558 must be distributed to a county where an
7 eligible project under RCW 82.32.558(9)(a)(i) is located for the
8 exclusive purpose of funding the construction or rehabilitation of
9 capital facilities used for youth educational programming related to
10 discovery, experimentation, and critical thinking in the sciences.
11 Funds may also be used for the maintenance and operation of such
12 capital facilities, which may include off-site operations that
13 directly relate to the core mission of curiosity, discovery,
14 experimentation, and critical thinking. The capital facility must be
15 located on the same premises as a qualifying arena.

16 (3) The state treasurer must deposit any interest assessed and
17 accrued on taxes due pursuant to RCW 82.32.558(4) that is part of any
18 annual repayment as follows:

19 (a) Interest on state taxes must be deposited into the state
20 general fund.

21 (b) Interest on local taxes must be deposited into the local
22 sales and use tax account.

23 (4) In the event that an accelerated repayment schedule is
24 authorized by the department pursuant to RCW 82.32.558(5), the state
25 treasurer must deposit any amount in excess of taxes due pursuant to
26 RCW 82.32.558(4) into the state general fund and into the local sales
27 and use account, with the respective amounts deposited based on the
28 proportionate shares of the state taxes and local taxes due.

29

30 **Sec. 84.** RCW 82.32.580 and 2017 3rd sp.s. c 37 s 902 are each
31 amended to read as follows:

32 (1) The governing board of a nonprofit organization, corporation,
33 or association may apply for deferral of taxes on an eligible
34 project. Application must be made to the department in a form and

1 manner prescribed by the department. The application must contain
2 information regarding the location of the project, estimated or
3 actual costs of the project, time schedules for completion and
4 operation of the project, and other information required by the
5 department. The department must rule on the application within sixty
6 days. All applications for the tax deferral under this section must
7 be received no later than December 31, 2008.

8 (2) The department must issue a sales and use tax deferral
9 certificate for state and local sales and use taxes due under
10 chapters 82.08, 82.12, and 82.14 RCW on each eligible project.

11 (3) The nonprofit organization, corporation, or association must
12 begin paying the deferred taxes in the tenth year after the date
13 certified by the department as the date on which the eligible project
14 is operationally complete. The first payment is due on December 31st
15 of the tenth calendar year after such certified date, with subsequent
16 annual payments due on December 31st of the following nine years.
17 Each payment must equal ten percent of the deferred tax.

18 (4) The department may authorize an accelerated repayment
19 schedule upon request of the nonprofit organization, corporation, or
20 association.

21 (5) Except as provided in subsection (6) of this section,
22 interest may not be charged on any taxes deferred under this section
23 for the period of deferral. The debt for deferred taxes is not
24 extinguished by insolvency or other failure of the nonprofit
25 organization, corporation, or association.

26 (6) If the project is not operationally complete within five
27 calendar years from issuance of the tax deferral or if at any time
28 the department finds that the project is not eligible for tax
29 deferral under this section, the amount of deferred taxes outstanding
30 for the project is immediately due and payable. If deferred taxes
31 must be repaid under this subsection, the department must assess
32 interest, but not penalties, on amounts due under this subsection.
33 Interest must be assessed at the rate provided for delinquent taxes
34

1 under this chapter, retroactively to the date of deferral, and
2 accrues until the deferred taxes due are repaid.

3 (7) Applications and any other information received by the
4 department of revenue under this section are not confidential under
5 RCW 82.32.330. This chapter applies to the administration of this
6 section.

7 (8) This section applies to taxable eligible project activity
8 that occurs on or after July 1, 2007.

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

11 (a) "Eligible project" means a project that is used primarily for
12 a historic automobile museum.

13 (b) "Historic automobile museum" means a facility owned and
14 operated by a nonprofit organization, corporation, or association
15 that is used to maintain and exhibit to the public a collection of at
16 least five hundred motor vehicles.

17 (c) "Nonprofit organization, corporation, or association" means
18 an organization, corporation, or association exempt from tax under
19 section 501(c) (3), (4), or (10) of the federal internal revenue code
20 (26 U.S.C. Sec. 501(c) (3), (4), or (10)).

21 (d) "Project" means the construction of new structures, the
22 acquisition and installation of fixtures that are permanently affixed
23 to and become a physical part of those structures, and site
24 preparation. For purposes of this subsection, structures do not
25 include parking facilities used for motor vehicles that are not on
26 display or part of the museum collection.

27 (e) "Site preparation" includes soil testing, site clearing and
28 grading, demolition, or any other related activities that are
29 initiated before construction. Site preparation does not include
30 landscaping services or landscaping materials.

31

32 **Sec. 85.** RCW 82.32.590 and 2017 c 135 s 3 are each amended to
33 read as follows:

34

1 (1) If the department finds that the failure of a taxpayer to
2 file an annual tax performance report under RCW 82.32.534 by the due
3 date was the result of circumstances beyond the control of the
4 taxpayer, the department must extend the time for filing the tax
5 performance report. The extension is for a period of thirty days from
6 the date the department issues its written notification to the
7 taxpayer that it qualifies for an extension under this section. The
8 department may grant additional extensions as it deems proper.

9 (2) In making a determination whether the failure of a taxpayer
10 to file an annual tax performance report by the due date was the
11 result of circumstances beyond the control of the taxpayer, the
12 department must be guided by rules adopted by the department for the
13 waiver or cancellation of penalties when the underpayment or untimely
14 payment of any tax was due to circumstances beyond the control of the
15 taxpayer.

16 (3)(a) Subject to the conditions in this subsection (3), a
17 taxpayer who fails to file an annual tax performance report required
18 under subsection (1) of this section by the due date of the report is
19 entitled to an extension of the due date. A request for an extension
20 under this subsection (3) must be made in writing to the department.

21 (b) To qualify for an extension under this subsection (3), a
22 taxpayer must have filed all annual tax performance reports, if any,
23 due in prior years under subsection (1) of this section by their
24 respective due dates, beginning with annual reports due in calendar
25 year 2010.

26 (c) An extension under this subsection (3) is for ninety days
27 from the original due date of the annual tax performance report.

28 (d) No taxpayer may be granted more than one ninety-day extension
29 under this subsection (3).

30

31 **Sec. 86.** RCW 82.32.600 and 2017 c 135 s 4 are each amended to
32 read as follows:

33 (1) Persons required to file annual tax performance reports under
34 RCW 82.32.534 must electronically file with the department all

1 reports, returns, and any other forms or information the department
2 requires in an electronic format as provided or approved by the
3 department. As used in this section, "returns" has the same meaning
4 as "return" in RCW 82.32.050.

5 (2) Any report, return, or any other form or information required
6 to be filed in an electronic format under subsection (1) of this
7 section is not filed until received by the department in an
8 electronic format.

9 (3) The department may waive the electronic filing requirement in
10 subsection (1) of this section for good cause shown.

11

12 **Sec. 87.** RCW 82.32.605 and 2023 c 341 s 4 are each amended to
13 read as follows:

14 (1) Every taxpayer claiming an exemption under RCW 82.08.956 or
15 82.12.956 must file with the department a complete annual tax
16 performance report under RCW 82.32.534, except that the taxpayer must
17 file a separate tax performance report for each facility owned or
18 operated in the state of Washington.

19 (2) This section expires June 30, 2034.

20

21 **Sec. 88.** RCW 82.32.607 and 2017 c 135 s 6 are each amended to
22 read as follows:

23 Every taxpayer claiming an exemption under RCW 82.08.962 or
24 82.12.962 must file with the department a complete annual tax
25 performance report under RCW 82.32.534, except that the taxpayer must
26 file a separate tax performance report for each facility owned or
27 operated in the state of Washington developed with machinery,
28 equipment, services, or labor for which the exemption under RCW
29 *43.136.058, 82.08.962, and 82.12.962 is claimed.

30

31 **Sec. 89.** RCW 82.32.655 and 2010 1st sp.s. c 23 s 201 are each
32 amended to read as follows:

33 (1) It is the legislature's intent to require all taxpayers to
34 pay their fair share of taxes. To accomplish this purpose, it is the

1 legislature's intent to stop transactions or arrangements that are
2 designed to unfairly avoid taxes.

3 (2) The department must disregard, for tax purposes, the tax
4 avoidance transactions or arrangements that are described in
5 subsection (3) of this section. The department must deny the tax
6 benefit that would otherwise result from the tax avoidance
7 transaction or arrangement. In determining whether the department
8 must disregard a transaction or arrangement described under
9 subsection (3) of this section, the department may consider:

10 (a) Whether an arrangement or transaction changes in a meaningful
11 way, apart from its tax effects, the economic positions of the
12 participants in the arrangement when considered as a whole;

13 (b) Whether substantial nontax reasons exist for entering into an
14 arrangement or transaction;

15 (c) Whether an arrangement or transaction is a reasonable means
16 of accomplishing a substantial nontax purpose;

17 (d) An entities' relative contributions to the work that
18 generates income;

19 (e) The location where work is performed; and

20 (f) Other relevant factors.

21 (3) This section applies only to the following transactions or
22 arrangements:

23 (a) Arrangements that are, in form, a joint venture or similar
24 arrangement between a construction contractor and the owner or
25 developer of a construction project but that are, in substance,
26 substantially guaranteed payments for the purchase of construction
27 services characterized by a failure of the parties' agreement to
28 provide for the contractor to share substantial profits and bear
29 significant risk of loss in the venture;

30 (b) Arrangements through which a taxpayer attempts to avoid tax
31 under chapter 82.04 RCW by disguising income received, or otherwise
32 avoiding tax on income, from a person that is not affiliated with the
33 taxpayer from business activities that would be taxable in Washington

34

1 by moving that income to another entity that would not be taxable in
2 Washington; and

3 (c) Arrangements through which a taxpayer attempts to avoid tax
4 under chapter 82.08 or 82.12 RCW by engaging in a transaction to
5 disguise its purchase or use of tangible personal property by vesting
6 legal title or other ownership interest in another entity over which
7 the taxpayer exercises control in such a manner as to effectively
8 retain control of the tangible personal property.

9 (4) In determining whether a transaction or arrangement comes
10 within the scope of subsection (3) of this section, the department is
11 not required to prove a taxpayer's subjective intent in engaging in
12 the transaction or arrangement.

13 (5) The department must adopt rules to assist in determining
14 whether a transaction or arrangement is within the scope of
15 subsection (3) of this section. The adoption of a rule as required
16 under this subsection is not a condition precedent for the
17 department's exercise of the authority provided in this section. Any
18 rules adopted under this section must include examples of
19 transactions that the department will disregard for tax purposes.

20 (6) This section does not affect the department's authority to
21 apply any other remedies available under statutory or common law.

22 (7) For purposes of this section, "affiliated" means under common
23 control. "Control" means the possession, directly or indirectly, of
24 more than fifty percent of the power to direct or cause the direction
25 of the management and policies of a person, whether through the
26 ownership of voting shares, by contract, or otherwise.

27

28 **Sec. 90.** RCW 82.32.660 and 2010 1st sp.s. c 23 s 202 are each
29 amended to read as follows:

30 (1)(a) The department may not use RCW 82.32.655 to disregard any
31 transaction or arrangement initiated before May 1, 2010, if, in
32 respect to such transaction or arrangement, the taxpayer had reported
33 its tax liability in conformance with either specific written
34 instructions provided by the department to the taxpayer, a

1 determination published under the authority of RCW 82.32.410, or
2 other document made available by the department to the general
3 public.

4 (b) This section does not apply if the transaction or arrangement
5 engaged in by the taxpayer differs materially from the transaction or
6 arrangement that was addressed in the specific written instructions,
7 published determination, or other document made available by the
8 department to the general public.

9 (2) RCW 82.32.655 does not apply to any tax periods ending before
10 May 1, 2010, that were included in a completed field audit conducted
11 by the department.

12 (3) For purposes of this section, "specific written instructions"
13 means tax reporting instructions provided to a taxpayer and which
14 specifically identify the taxpayer to whom the instructions apply.
15 Specific written instructions may be provided as part of an audit,
16 tax assessment, determination, closing agreement, or in response to a
17 binding ruling request.

18
19 **Sec. 91.** RCW 82.32.670 and 2017 c 323 s 401 are each amended to
20 read as follows:

21 (1)(a) Automated sales suppression devices, phantom-ware,
22 electronic cash registers or point of sale systems used with
23 automated sales suppression devices or phantom-ware, and any property
24 constituting proceeds traceable to any violation of RCW 82.32.290(4)
25 are considered contraband and are subject to seizure and forfeiture.

26 (b) Property subject to forfeiture under (a) of this subsection
27 (1) may be seized by any agent of the department authorized to assess
28 or collect taxes, or law enforcement officer of this state, upon
29 process issued by any superior court or district court having
30 jurisdiction over the property. Seizure without process may be made
31 if:

32 (i) The seizure is incident to an arrest or a search under a
33 search warrant; or

34

1 (ii) The department or the law enforcement officer has probable
2 cause to believe that the property was used or is intended to be used
3 in violation of RCW 82.32.290(4) and exigent circumstances exist
4 making procurement of a search warrant impracticable.

5 (2) Forfeiture authorized by this section is deemed to have
6 commenced by the seizure. Notice of seizure must be given to the
7 department if the seizure is made by a law enforcement officer
8 without the presence of any agent of the department. The department
9 must cause notice of the seizure and intended forfeiture to be served
10 on the owner of the property seized, if known, and on any other
11 person known by the department to have a right or interest in the
12 seized property. Such service must be made within fifteen days
13 following the seizure or the department's receipt of notification of
14 the seizure. The notice may be served by any method authorized by law
15 or court rule, by certified mail with return receipt requested, or
16 electronically in accordance with RCW 82.32.135. Service by certified
17 mail or electronic means is deemed complete upon mailing the notice,
18 electronically sending the notice, or electronically notifying the
19 person or persons entitled to the notice that the notice is available
20 to be accessed by the person or persons, within the fifteen-day
21 period following the seizure or the department's receipt of
22 notification of the seizure.

23 (3) If no person notifies the department in writing of the
24 person's claim of lawful ownership or right to lawful possession of
25 the item or items seized within thirty days of the date of service of
26 the notice of seizure and intended forfeiture, the item or items
27 seized are deemed forfeited.

28 (4)(a) If any person notifies the department, in writing, of the
29 person's claim of lawful ownership or lawful right to possession of
30 the item or items seized within thirty days of the date of service of
31 the notice of seizure and intended forfeiture, the person or persons
32 must be afforded a reasonable opportunity to be heard as to the
33 claim. The hearing must be before the director or the director's
34 designee. A hearing and any administrative or judicial review is

1 governed by chapter 34.05 RCW. The burden of proof by a preponderance
2 of the evidence is upon the person claiming to be the lawful owner or
3 the person claiming to have the lawful right to possession of the
4 item or items seized.

5 (b) The department must return the item or items to the claimant
6 as soon as possible upon a determination that the claimant is the
7 present lawful owner or is lawfully entitled to possession of the
8 item or items seized.

9 (5) When property is sought to be forfeited on the ground that it
10 constitutes proceeds traceable to a violation of RCW 82.32.290(4),
11 the department must prove by a preponderance of the evidence that the
12 property constitutes proceeds traceable to a violation of RCW
13 82.32.290(4).

14 (6)(a) When automated sales suppression devices or phantom-ware
15 voluntarily surrendered to an agent of the department, or property
16 forfeited under this section, other than proceeds traceable to a
17 violation of RCW 82.32.290(4), is no longer required for evidentiary
18 purposes, the department may:

19 (i) Destroy or have the property destroyed;

20 (ii) Retain the property for training or other official purposes;

21 or

22 (iii) Loan or give the property to any law enforcement or tax
23 administration agency of any state, political subdivision or
24 municipal corporation of a state, or the United States for training
25 or other official purposes. For purposes of this subsection (6)(a)
26 (iii), "state" has the same meaning as in RCW 82.04.462.

27 (b) When proceeds traceable to a violation of RCW 82.32.290(4)
28 forfeited under this section are no longer required for evidentiary
29 purposes, they must be deposited into the general fund.

30 (7) The definitions in this subsection apply to this section:

31 (a) "Automated sales suppression device" means a software program
32 that falsifies the electronic records of electronic cash registers or
33 other point of sale systems, including transaction data and
34 transaction reports. The term includes the software program, any

1 device that carries the software program, or an internet link to the
2 software program.

3 (b) "Electronic cash register" means a device that keeps a
4 register or supporting documents through the means of an electronic
5 device or computer system designed to record transaction data for the
6 purpose of computing, compiling, or processing sales transaction data
7 in whatever manner.

8 (c) "Phantom-ware" means a programming option that is hidden,
9 preinstalled, or installed-at-a-later-time in the operating system of
10 an electronic cash register or other point of sale device, or
11 hardwired into the electronic cash register or other point of sale
12 device, and that can be used to create a virtual second till or may
13 eliminate or manipulate transaction reports that may or may not be
14 preserved in digital formats to represent the true or manipulated
15 record of transactions in the electronic cash register or other point
16 of sale device.

17 (d) "Transaction data" means information about sales
18 transactions, including items purchased by a customer, the price for
19 each item, a taxability determination for each item, a segregated tax
20 amount for each of the taxed items, the amount of cash or credit
21 tendered, the net amount returned to the customer in change, the date
22 and time of the purchase, the name, address, and identification
23 number of the vendor, and the receipt or invoice number of the
24 transaction.

25 (e) "Transaction reports" means a report that includes
26 information associated with sales transactions, taxes collected,
27 media totals, and discount voids at an electronic cash register that
28 can be printed on cash register tape at the end of a day or shift, or
29 a report documenting every action at an electronic cash register or
30 other point of sale device and that is stored electronically.

31

32 **Sec. 92.** RCW 82.32.680 and 2013 c 309 s 4 are each amended to
33 read as follows:

34

1 When the department has good reason to believe that any property
2 subject to seizure and forfeiture under RCW 82.32.670 is being used
3 or maintained in this state in violation of RCW 82.32.290(4)(a), the
4 department may make affidavit of facts describing the place or thing
5 to be searched before any judge of any superior or district court in
6 this state. The judge may issue a search warrant directed to a law
7 enforcement officer or agent of the department authorized under RCW
8 82.32.670 to seize contraband, commanding him or her to diligently
9 search any place or thing as designated in the affidavit and search
10 warrant, and to seize such suspected contraband and hold it until
11 disposed of as provided by RCW 82.32.670.

12

13 **Sec. 93.** RCW 82.32.700 and 2007 c 266 s 9 are each amended to
14 read as follows:

15 (1) As a condition to imposing a sales and use tax under RCW
16 82.14.465, a city, town, or county must apply to the department at
17 least seventy-five days before the effective date of any such tax.
18 The application shall be in a form and manner prescribed by the
19 department and shall include but is not limited to information
20 establishing that the applicant is eligible to impose such a tax, the
21 anticipated effective date for imposing the tax, the estimated number
22 of years that the tax will be imposed, and the estimated amount of
23 tax revenue to be received in each fiscal year that the tax will be
24 imposed. For purposes of this section, "fiscal year" means the year
25 beginning July 1st and ending the following June 30th. The department
26 shall make available forms to be used for this purpose. As part of
27 the application, a city, town, or county must provide to the
28 department a copy of the ordinance creating the benefit zone as
29 required in RCW 39.100.040. The department shall rule on completed
30 applications within sixty days of receipt. The department may begin
31 accepting and approving applications August 1, 2006. No new
32 applications shall be considered by the department after the
33 thirtieth day of September of the third year following the year in
34 which the first application was received by the department.

1 (2) The authority to impose the local option sales and use taxes
2 under RCW 82.14.465 is on a first-come basis. Priority for collecting
3 the taxes authorized under RCW 82.14.465 among approved applicants
4 shall be based on the date that the approved application was received
5 by the department. As a part of the approval of applications under
6 this section, the department shall approve the amount of tax under
7 RCW 82.14.465 that an applicant may impose. The amount of tax
8 approved by the department shall not exceed the lesser of two million
9 dollars or the average amount of tax revenue that the applicant
10 estimates that it will receive in all fiscal years through the
11 imposition of a sales and use tax under RCW 82.14.465. A city, town,
12 or county shall not receive, in any fiscal year, more revenues from
13 taxes imposed under RCW 82.14.465 than the amount approved by the
14 department. The department shall not approve the receipt of more
15 credit against the state sales and use tax than is authorized under
16 subsection (3) of this section.

17 (3) No more than two million dollars of credit against the state
18 sales and use tax provided for under RCW 82.14.465(2), may be
19 received in any fiscal year by all cities, towns, and counties
20 imposing a tax under RCW 82.14.465.

21 (4)(a) The credit against the state sales and use tax shall be
22 available to any city, town, or county imposing a tax under RCW
23 82.14.465 only as long as the city, town, or county has outstanding
24 indebtedness under chapter 39.100 RCW or the tax allocation revenues
25 are used for public improvement costs, but in no case shall the
26 credit be available for more than thirty years after the tax is first
27 imposed by the city, town, or county.

28 (b) Local governments may pledge any receipts from taxes levied
29 and collected under chapter 39.100 RCW and RCW 82.14.465 to the
30 repayment of its bonds or bond anticipation notes. A local government
31 shall notify the department when all outstanding indebtedness secured
32 in whole or in part from receipts is no longer outstanding or tax
33 allocation revenues are no longer used for public improvement costs,
34 and the credit provided for under RCW 82.14.465 shall be terminated.

1 (5) The department may adopt any rules under chapter 34.05 RCW it
2 considers necessary for the administration of chapter 39.100 RCW.

3
4 **Sec. 94.** RCW 82.32.710 and 2017 c 135 s 7 are each amended to
5 read as follows:

6 (1) A client under the terms of a professional employer agreement
7 is deemed to be the sole employer of a covered employee for purposes
8 of eligibility for any tax credit, exemption, or other tax incentive,
9 arising as the result of the employment of covered employees,
10 provided in RCW *82.04.4333, 82.04.44525, 82.04.448, **82.04.4483,
11 82.08.965, 82.12.965, 82.16.0495, or 82.60.049 or chapter 82.62 or
12 82.70 RCW, or any other provision in this title. A client, and not
13 the professional employer organization, is entitled to the benefit of
14 any tax credit, exemption, or other tax incentive arising as the
15 result of the employment of covered employees of that client.

16 (2) A client under the terms of a professional employer agreement
17 is deemed to be the sole employer of a covered employee for purposes
18 of tax performance reports that require the reporting of employment
19 information relating to covered employees of the client, as provided
20 in RCW 82.32.534. A client, and not the professional employer
21 organization, is required to complete any tax performance report that
22 requires the reporting of employment information relating to covered
23 employees of that client.

24 (3) For the purposes of this section, "client," "covered
25 employee," "professional employer agreement," and "professional
26 employer organization" have the same meanings as in RCW 82.04.540.

27
28 **Sec. 95.** RCW 82.32.715 and 2019 c 8 s 403 are each amended to
29 read as follows:

30 (1) The department must adopt by rule monetary allowances for
31 certified service providers selected by model 1 sellers and also for
32 model 2 sellers. The department may be guided by the provisions for
33 monetary allowances adopted by the governing board of the agreement
34 to determine the amount of the allowances and the conditions under

1 which they are allowed. The monetary allowances must be reasonable
2 and provide adequate incentive for certified service providers and
3 sellers to collect and remit sales and use taxes under the agreement.
4 Monetary allowances will be funded solely from state sales and use
5 taxes. The department may modify its rules for monetary allowances in
6 light of the holding of the United States supreme court in *South*
7 *Dakota v. Wayfair, Inc.*, Docket No. 17-494, issued June 21, 2018.

8 (2) For certified service providers, the monetary allowance may
9 include a base rate that applies to taxable transactions processed by
10 the certified service provider.

11 (3) For model 2 sellers, the monetary allowance may include a
12 base rate and a percentage of revenue generated by a seller
13 registering under RCW 82.32.030(3), but may not exceed a period of
14 twenty-four months.

15

16 **Sec. 96.** RCW 82.32.720 and 2007 c 6 s 302 are each amended to
17 read as follows:

18 (1) The department may adopt by rule vendor compensation for
19 sellers collecting and remitting sales and use taxes. The vendor
20 compensation may include a base rate or a percentage of tax revenue
21 collected by the seller, and may vary by type of seller. The
22 department may be guided by the findings of the cost of collection
23 study performed under the agreement, by cost of collection studies
24 performed by the department, and by vendor compensation provided by
25 other states, to determine reasonable vendor compensation for sellers
26 for the costs to collect and remit sales and use taxes. Vendor
27 compensation will be funded solely from state sales and use taxes.

28 (2) A seller is not entitled to vendor compensation while the
29 seller or its certified service provider receives a monetary
30 allowance under RCW 82.32.715.

31

32 **Sec. 97.** RCW 82.32.725 and 2007 c 6 s 401 are each amended to
33 read as follows:

34

1 (1) No assessment for taxes imposed or authorized under chapters
2 82.08, 82.12, and 82.14 RCW, or related penalties or interest, may be
3 made by the department against a seller who:

4 (a) Within twelve months of the effective date of this state
5 becoming a member state of the agreement, registers under RCW
6 82.32.030(3) to collect and remit to the department the applicable
7 taxes imposed or authorized under chapters 82.08, 82.12, and 82.14
8 RCW on sales made to buyers in this state in accordance with the
9 terms of the agreement, if the seller was not otherwise registered in
10 this state in the twelve-month period preceding the effective date of
11 this state becoming a member state of the agreement; and

12 (b) Continues to be registered and continues to collect and remit
13 to the department the applicable taxes imposed or authorized under
14 chapters 82.08, 82.12, and 82.14 RCW for a period of at least thirty-
15 six months, absent the seller's fraud or intentional
16 misrepresentation of a material fact.

17 (2) The provisions of subsection (1) of this section preclude an
18 assessment for taxes imposed or authorized under chapters 82.08,
19 82.12, and 82.14 RCW for sales made to buyers during the period the
20 seller was not registered in this state.

21 (3) The provisions of this section do not apply to any seller
22 with respect to:

23 (a) Any matter or matters for which the seller, before
24 registering to collect and remit the applicable taxes imposed or
25 authorized under chapters 82.08, 82.12, and 82.14 RCW, received
26 notice from the department of the commencement of an audit and which
27 audit is not yet finally resolved including any related
28 administrative and judicial processes;

29 (b) Taxes imposed or authorized under chapters 82.08, 82.12, and
30 82.14 RCW and collected or remitted to the department by the seller;
31 or

32 (c) That seller's liability for taxes imposed or authorized under
33 chapters 82.08, 82.12, and 82.14 RCW in that seller's capacity as a
34 buyer.

1 (4) The limitation periods for making an assessment or correction
2 of an assessment prescribed in RCW *82.32.050(3) and 82.32.100(3) do
3 not run during the thirty-six month period in subsection (1)(b) of
4 this section.

5
6 **Sec. 98.** RCW 82.32.730 and 2010 c 106 s 229 are each amended to
7 read as follows:

8 (1) Except as provided in subsections (5) through (8) of this
9 section, for purposes of collecting or paying sales or use taxes to
10 the appropriate jurisdictions, all sales at retail shall be sourced
11 in accordance with this subsection and subsections (2) through (4) of
12 this section.

13 (a) When tangible personal property, an extended warranty, a
14 digital good, digital code, digital automated service, or other
15 service defined as a retail sale under RCW 82.04.050 is received by
16 the purchaser at a business location of the seller, the sale is
17 sourced to that business location.

18 (b) When the tangible personal property, extended warranty,
19 digital good, digital code, digital automated service, or other
20 service defined as a retail sale under RCW 82.04.050 is not received
21 by the purchaser at a business location of the seller, the sale is
22 sourced to the location where receipt by the purchaser or the
23 purchaser's donee, designated as such by the purchaser, occurs,
24 including the location indicated by instructions for delivery to the
25 purchaser or donee, known to the seller.

26 (c) When (a) and (b) of this subsection do not apply, the sale is
27 sourced to the location indicated by an address for the purchaser
28 that is available from the business records of the seller that are
29 maintained in the ordinary course of the seller's business when use
30 of this address does not constitute bad faith.

31 (d) When (a), (b), and (c) of this subsection do not apply, the
32 sale is sourced to the location indicated by an address for the
33 purchaser obtained during the consummation of the sale, including the
34

1 address of a purchaser's payment instrument, if no other address is
2 available, when use of this address does not constitute bad faith.

3 (e) When (a), (b), (c), or (d) of this subsection do not apply,
4 including the circumstance where the seller is without sufficient
5 information to apply those provisions, then the location shall be
6 determined by the address from which tangible personal property was
7 shipped, from which the digital good or digital code or the computer
8 software delivered electronically was first available for
9 transmission by the seller, or from which the extended warranty or
10 digital automated service or other service defined as a retail sale
11 under RCW 82.04.050 was provided, disregarding for these purposes any
12 location that merely provided the digital transfer of the product
13 sold.

14 (2) The lease or rental of tangible personal property, other than
15 property identified in subsection (3) or (4) of this section, shall
16 be sourced as provided in this subsection.

17 (a) For a lease or rental that requires recurring periodic
18 payments, the first periodic payment is sourced the same as a retail
19 sale in accordance with subsection (1) of this section. Periodic
20 payments made subsequent to the first payment are sourced to the
21 primary property location for each period covered by the payment. The
22 primary property location shall be as indicated by an address for the
23 property provided by the lessee that is available to the lessor from
24 its records maintained in the ordinary course of business, when use
25 of this address does not constitute bad faith. The property location
26 is not altered by intermittent use at different locations, such as
27 use of business property that accompanies employees on business trips
28 and service calls.

29 (b) For a lease or rental that does not require recurring
30 periodic payments, the payment is sourced the same as a retail sale
31 in accordance with subsection (1) of this section.

32 (c) This subsection (2) does not affect the imposition or
33 computation of sales or use tax on leases or rentals based on a lump
34

1 sum or accelerated basis, or on the acquisition of property for
2 lease.

3 (3) The lease or rental of motor vehicles, trailers,
4 semitrailers, or aircraft that do not qualify as transportation
5 equipment shall be sourced as provided in this subsection.

6 (a) For a lease or rental that requires recurring periodic
7 payments, each periodic payment is sourced to the primary property
8 location. The primary property location is as indicated by an address
9 for the property provided by the lessee that is available to the
10 lessor from its records maintained in the ordinary course of
11 business, when use of this address does not constitute bad faith.
12 This location is not altered by intermittent use at different
13 locations.

14 (b) For a lease or rental that does not require recurring
15 periodic payments, the payment is sourced the same as a retail sale
16 in accordance with subsection (1) of this section.

17 (c) This subsection does not affect the imposition or computation
18 of sales or use tax on leases or rentals based on a lump sum or
19 accelerated basis, or on the acquisition of property for lease.

20 (4) The retail sale, including lease or rental, of transportation
21 equipment shall be sourced the same as a retail sale in accordance
22 with subsection (1) of this section.

23 (5) This subsection applies to direct mail transactions not
24 governed by subsection (6) of this section.

25 (a) This subsection (5)(a) applies to sales of advertising and
26 promotional direct mail.

27 (i) A purchaser of advertising and promotional direct mail may
28 provide the seller with either:

29 (A) A direct pay permit;

30 (B) A streamlined sales and use tax agreement certificate of
31 exemption claiming direct mail (or other written statement approved,
32 authorized, or accepted by the department); or

33

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1 (C) Information showing the jurisdictions to which the
2 advertising and promotional direct mail is to be delivered to
3 recipients.

4 (ii) If the purchaser provides the permit, certificate, or
5 statement referred to in (a)(i)(A) or (B) of this subsection (5), the
6 seller, in the absence of bad faith, is relieved of all obligations
7 to collect, pay, or remit any tax on any transaction involving
8 advertising and promotional direct mail to which the permit,
9 certificate, or statement applies. The purchaser must source the sale
10 to the jurisdictions to which the advertising and promotional direct
11 mail is to be delivered to the recipients and must report and pay any
12 applicable tax due.

13 (iii) If the purchaser provides the seller information showing
14 the jurisdictions to which the advertising and promotional direct
15 mail is to be delivered to recipients, the seller must source the
16 sale to the jurisdictions to which the advertising and promotional
17 direct mail is to be delivered and must collect and remit the
18 applicable tax. In the absence of bad faith, the seller is relieved
19 of any further obligation to collect any additional tax on the sale
20 of advertising and promotional direct mail where the seller has
21 sourced the sale according to the delivery information provided by
22 the purchaser.

23 (iv) If the purchaser does not provide the seller with any of the
24 items listed in (a)(i)(A), (B), or (C) of this subsection (5), the
25 sale must be sourced according to subsection (1)(e) of this section.

26 (b) This subsection (5)(b) applies to sales of other direct mail.

27 (i) Except as otherwise provided in this subsection (5)(b), sales
28 of other direct mail are sourced in accordance with subsection (1)(c)
29 of this section.

30 (ii) A purchaser of other direct mail may provide the seller with
31 either:

32 (A) A direct pay permit; or

33

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1 (B) A streamlined sales and use tax agreement certificate of
2 exemption claiming direct mail (or other written statement approved,
3 authorized, or accepted by the department).

4 (iii) If the purchaser provides the permit, certificate, or
5 statement referred to in (b)(ii)(A) or (B) of this subsection (5),
6 the seller, in the absence of bad faith, is relieved of all
7 obligations to collect, pay, or remit any tax on any transaction
8 involving other direct mail to which the permit, certificate, or
9 statement applies. Notwithstanding (b)(i) of this subsection (5), the
10 sale must be sourced to the jurisdictions to which the other direct
11 mail is to be delivered to the recipients, and the purchaser must
12 report and pay any applicable tax due.

13 (6)(a) This subsection applies only with respect to transactions
14 in which direct mail is delivered or distributed from a location
15 within this state to a location within this state.

16 (b) If the purchaser of direct mail provides the seller with a
17 direct pay permit or a streamlined sales and use tax agreement
18 certificate of exemption claiming direct mail (or other written
19 statement approved, authorized, or accepted by the department), the
20 seller, in the absence of bad faith, is relieved of all obligations
21 to collect, pay, or remit the applicable tax on any transaction
22 involving direct mail to which the permit, certificate, or statement
23 applies. The purchaser must report and pay any applicable tax due. A
24 streamlined sales and use tax agreement certificate of exemption
25 claiming direct mail will remain in effect for all future sales of
26 direct mail by the seller to the purchaser until it is revoked in
27 writing.

28 (c)(i) Except as provided in (b), (c)(ii), and (c)(iii) of this
29 subsection (6), the seller must collect the tax according to
30 subsection (1)(e) of this section.

31 (ii) To the extent the seller knows that a portion of the sale of
32 direct mail will be delivered or distributed to locations in another
33 state, the seller must collect the tax on that portion according to
34 subsection (5) of this section.

1 (iii) Notwithstanding (c)(i) and (ii) of this subsection (6), a
2 seller may elect to use the provisions of subsection (5) of this
3 section to source all sales of advertising and promotional direct
4 mail.

5 (7) The following are sourced to the location at or from which
6 delivery is made to the consumer:

7 (a) A retail sale of watercraft;

8 (b) A retail sale of a modular home, manufactured home, or mobile
9 home;

10 (c) A retail sale, excluding the lease and rental, of a motor
11 vehicle, trailer, semitrailer, or aircraft, that do not qualify as
12 transportation equipment; and

13 (d) Florist sales. In the case of a sale in which one florist
14 takes an order from a customer and then communicates that order to
15 another florist who delivers the items purchased to the place
16 designated by the customer, the location at or from which the
17 delivery is made to the consumer is deemed to be the location of the
18 florist originally taking the order.

19 (8)(a) A retail sale of the providing of telecommunications
20 services, as that term is defined in RCW 82.04.065, is sourced in
21 accordance with RCW 82.32.520.

22 (b) A retail sale of the providing of ancillary services, as that
23 term is defined in RCW 82.04.065, is sourced to the customer's place
24 of primary use of the telecommunications services in respect to which
25 the ancillary services are associated with or incidental to. The
26 definitions of "customer" and "place of primary use" in RCW 82.32.520
27 apply to this subsection (8)(b).

28 (9) The definitions in this subsection apply throughout this
29 section.

30 (a) "Advertising and promotional direct mail" means printed
31 material that meets the definition of direct mail, the primary
32 purpose of which is to attract public attention to a product, person,
33 business, or organization, or to attempt to sell, popularize, or
34 secure financial support for a product, person, business, or

1 organization. As used in this subsection (9)(a), the word "product"
2 means tangible personal property, a product transferred
3 electronically, or a service.

4 (b) "Delivered electronically" means delivered to the purchaser
5 by means other than tangible storage media.

6 (c) "Direct mail" means printed material delivered or distributed
7 by United States mail or other delivery service to a mass audience or
8 to addressees on a mailing list provided by the purchaser or at the
9 direction of the purchaser when the cost of the items are not billed
10 directly to the recipients. "Direct mail" includes tangible personal
11 property supplied directly or indirectly by the purchaser to the
12 direct mail seller for inclusion in the package containing the
13 printed material. "Direct mail" does not include multiple items of
14 printed material delivered to a single address.

15 (d)(i) "Other direct mail" means any direct mail that is not
16 advertising and promotional direct mail, regardless of whether
17 advertising and promotional direct mail is included in the same
18 mailing. The term includes, but is not limited to:

19 (A) Transactional direct mail that contains personal information
20 specific to the addressee including, but not limited to, invoices,
21 bills, statements of account, and payroll advices;

22 (B) Any legally required mailings including, but not limited to,
23 privacy notices, tax reports, and stockholder reports; and

24 (C) Other nonpromotional direct mail delivered to existing or
25 former shareholders, customers, employees, or agents including, but
26 not limited to, newsletters and informational pieces.

27 (ii) Other direct mail does not include the development of
28 billing information or the provision of any data processing service
29 that is more than incidental.

30 (e) "Florist sales" means the retail sale of tangible personal
31 property by a florist. For purposes of this subsection (9)(e),
32 "florist" means a person whose primary business activity is the
33 retail sale of fresh cut flowers, potted ornamental plants, floral
34

1 arrangements, floral bouquets, wreaths, or any similar products, used
2 for decorative and not landscaping purposes.

3 (f) "Receive" and "receipt" mean taking possession of tangible
4 personal property, making first use of digital automated services or
5 other services, or taking possession or making first use of digital
6 goods or digital codes, whichever comes first. "Receive" and
7 "receipt" do not include possession by a shipping company on behalf
8 of the purchaser.

9 (g) "Transportation equipment" means:

10 (i) Locomotives and railcars that are used for the carriage of
11 persons or property in interstate commerce;

12 (ii) Trucks and truck tractors with a gross vehicle weight rating
13 of ten thousand one pounds or greater, trailers, semitrailers, or
14 passenger buses that are:

15 (A) Registered through the international registration plan; and

16 (B) Operated under authority of a carrier authorized and
17 certificated by the United States department of transportation or
18 another federal authority to engage in the carriage of persons or
19 property in interstate commerce;

20 (iii) Aircraft that are operated by air carriers authorized and
21 certificated by the United States department of transportation or
22 another federal or foreign authority to engage in the carriage of
23 persons or property in interstate or foreign commerce; or

24 (iv) Containers designed for use on and component parts attached
25 or secured on the items described in (g)(i) through (iii) of this
26 subsection.

27 (10) In those instances where there is no obligation on the part
28 of a seller to collect or remit this state's sales or use tax, the
29 use of tangible personal property, digital good, digital code, or of
30 a digital automated service or other service, subject to use tax, is
31 sourced to the place of first use in this state. The definition of
32 use in RCW 82.12.010 applies to this subsection.

33

34

1 **Sec. 99.** RCW 82.32.735 and 2007 c 6 s 601 are each amended to
2 read as follows:

3 (1) A fundamental precept of allowing the use of a certified
4 service provider is to preserve the privacy of consumers by
5 protecting their anonymity. With very limited exceptions, a certified
6 service provider shall perform its tax calculation, remittance, and
7 reporting functions without retaining the personally identifiable
8 information of consumers.

9 (2) The department shall provide public notification to
10 consumers, including purchasers claiming exemption from tax, of its
11 practices relating to the collection, use, and retention of
12 personally identifiable information.

13 (3) When personally identifiable information that has been
14 collected and retained is no longer required to ensure the validity
15 of exemptions from taxation by reason of the consumer's status or the
16 intended use of the goods or services purchased, the information
17 shall no longer be retained by the state of Washington.

18 (4) When personally identifiable information regarding an
19 individual is retained by or on behalf of the state of Washington,
20 this state shall provide reasonable access for the individual to his
21 or her own information and a right to correct any inaccurately
22 recorded information.

23 (5) If anyone other than a member state of the agreement, or
24 other than a person authorized by Washington law or the agreement,
25 seeks to discover personally identifiable information, the state of
26 Washington shall make a reasonable and timely effort to notify the
27 individual of the request.

28 (6) The provisions of this section may be enforced by petitioning
29 the superior court of Thurston county for injunctive relief.

30

31 **Sec. 100.** RCW 82.32.740 and 2015 c 86 s 401 are each amended to
32 read as follows:

33 (1) The department must complete a taxability matrix maintained
34 by the member states of the agreement in downloadable format. The

1 matrix contains terms defined in the agreement and the disclosure of
2 the state's practices in the administration of sales and use taxes as
3 required under section 335 of the agreement. The department must
4 provide notice of changes in the taxability of products or services
5 listed in the matrix. The department must also provide notice of
6 changes in the state's treatment of practices identified in the
7 matrix.

8 (2)(a) Sellers and certified service providers are relieved from
9 liability to the state and to local jurisdictions for having charged
10 or collected the incorrect amount of sales or use tax if the error
11 resulted from reliance on erroneous information provided by the
12 department in the taxability matrix.

13 (b) Beginning July 1, 2015, if the taxability matrix is amended,
14 sellers and certified service providers are relieved from liability
15 to the state and to local jurisdictions to the extent that the seller
16 or certified service provider relied on the immediately preceding
17 version of the state's taxability matrix. Relief under this
18 subsection (2)(b) is available until the first day of the calendar
19 month that is at least thirty days after the department submits
20 notice of a change to the state's taxability matrix to the
21 streamlined sales tax governing board.

22

23 **Sec. 101.** RCW 82.32.745 and 2007 c 6 s 702 are each amended to
24 read as follows:

25 (1) The department shall review software submitted to the
26 governing board of the agreement for certification as a certified
27 automated system under the terms of the agreement. The review shall
28 include a determination of whether the software adequately classifies
29 this state's product-based sales tax exemptions. Upon completing the
30 review, the department shall certify to the governing board its
31 acceptance or rejection of the classifications made by the system.

32 (2) Certified service providers and model 2 sellers shall be held
33 harmless and are not liable for sales or use taxes, nor interest or
34

1 penalties on those taxes, not collected due to reliance on the
2 certification of the department under subsection (1) of this section.

3 (3) The relief from liability provided to certified service
4 providers and model 2 sellers under subsection (2) of this section
5 does not apply with respect to the incorrect classification of an
6 item or transaction into a product-based exemption certified by the
7 department unless that item or transaction is contained in a listing
8 of items or transactions within a product definition approved by the
9 governing board or the department.

10 (4) If the department determines that an item or transaction is
11 incorrectly classified as to its taxability, it shall notify the
12 certified service provider or model 2 seller of the incorrect
13 classification. The certified service provider or model 2 seller has
14 ten days to revise the classification after receipt of notice from
15 the department. Upon the expiration of the ten days, the certified
16 service provider or model 2 seller is liable for the failure to
17 collect the correct amount of sales or use taxes.

18

19 **Sec. 102.** RCW 82.32.750 and 2007 c 6 s 703 are each amended to
20 read as follows:

21 (1) Purchasers are relieved from liability for tax, interest, and
22 penalty for having failed to pay the correct amount of sales or use
23 tax in any of the following circumstances:

24 (a) A purchaser's seller or certified service provider relied on
25 erroneous data provided by the department on tax rates, boundaries,
26 taxing jurisdiction assignments, or in the taxability matrix
27 completed by the department pursuant to RCW 82.32.740;

28 (b) A purchaser holding a direct pay permit relied on erroneous
29 data provided by the department on tax rates, boundaries, taxing
30 jurisdiction assignments, or in the taxability matrix completed by
31 the department pursuant to RCW 82.32.740;

32 (c) A purchaser relied on erroneous data provided by the
33 department in the taxability matrix completed by the department
34 pursuant to RCW 82.32.740; or

1 (d) A purchaser relied on erroneous data provided by the
2 department on tax rates, boundaries, or taxing jurisdiction
3 assignments.

4 (2) For purposes of this section, "penalty" means an amount
5 imposed for noncompliance that is not fraudulent, willful, or
6 intentional that is in addition to the correct amount of sales or use
7 tax and interest.

8

9 **Sec. 103.** RCW 82.32.762 and 2019 c 8 s 404 are each amended to
10 read as follows:

11 (1) If the department determines that a change, taking effect
12 after March 14, 2019, in the streamlined sales and use tax agreement
13 or federal law creates a conflict with any provision of chapter 8,
14 Laws of 2019, such conflicting provision or provisions of chapter 8,
15 Laws of 2019, including any related provisions that would not
16 function as originally intended, have no further force and effect as
17 of the date the change in the streamlined sales and use tax agreement
18 or federal law becomes effective.

19 (2) For purposes of this section:

20 (a) A change in federal law conflicts with chapter 8, Laws of
21 2019 if the change clearly prevents states from imposing sales and
22 use tax collection obligations on remote sellers to the extent
23 provided for under chapter 8, Laws of 2019.

24 (b) A change in the streamlined sales and use tax agreement
25 conflicts with chapter 8, Laws of 2019 if one or more provisions of
26 chapter 8, Laws of 2019 causes this state to be found out of
27 compliance with the streamlined sales and use tax agreement by its
28 governing board.

29 (3)(a) If the department makes a determination under this section
30 that a change in federal law or the streamlined sales and use tax
31 agreement conflicts with one or more provisions of chapter 8, Laws of
32 2019:

33 (i) For purposes of conflicts between the streamlined sales and
34 use tax agreement and chapter 8, Laws of 2019, the department may

1 adopt rules in accordance with chapter 34.05 RCW, including emergency
2 rules, that are consistent with the streamlined sales and use tax
3 agreement; and

4 (ii) For purposes of conflicts between federal law and chapter 8,
5 Laws of 2019, the department must, by rule or rules adopted in
6 accordance with chapter 34.05 RCW, including emergency rules:

7 (A) Impose sales and use tax collection obligations and business
8 and occupation tax on remote sellers to the fullest extent allowed
9 under state and federal law, which may include adopting provisions
10 identical or substantially similar to those in sections 202 and
11 204(6)(c)(ii), chapter 5, Laws of 2015 3rd sp. sess.; and

12 (B) Implement election, notice, and reporting provisions
13 substantially similar to those in sections 202 through 207, chapter
14 28, Laws of 2017 3rd sp. sess. The department must impose such
15 election, notice, and reporting provisions only on remote sellers and
16 marketplace facilitators against whom the department is unable to
17 enforce a tax collection obligation as a result of a change in
18 federal law. The department must not impose election, notice, and
19 reporting provisions on referrers as defined in section 204, chapter
20 28, Laws of 2017 3rd sp. sess. The department must impose penalties
21 for failure to comply with notice or reporting requirements
22 consistent with those penalties imposed in section 206, chapter 28,
23 Laws of 2017 3rd sp. sess.

24 (b) For purposes of (a)(i) and (ii) of this subsection (3), the
25 department must include information on its website informing
26 taxpayers and the public (i) of the provision or provisions of
27 chapter 8, Laws of 2019 that will have no further force and effect,
28 (ii) when such change will become effective, and (iii) about how to
29 participate in any rule making conducted by the department in
30 accordance with (a)(i) and (ii) of this subsection (3).

31 (4) For purposes of this section, "remote seller" and
32 "marketplace facilitator" have the same meaning as in RCW 82.13.010
33 through June 30, 2019, and RCW 82.08.010 beginning July 1, 2019.

34

1 **Sec. 104.** RCW 82.32.765 and 2016 c 207 s 5 are each amended to
2 read as follows:

3 (1) A sponsoring local government receiving a project award under
4 RCW 39.104.100 must provide a report to the department by March 1st
5 of each year beginning March 1st after the project award has been
6 approved. The report must contain the following information:

7 (a) The amounts of local property tax allocation revenues
8 received in the preceding calendar year broken down by sponsoring
9 local government and participating taxing district;

10 (b) The amount of state property tax allocation revenues
11 estimated to have been received by the state in the preceding
12 calendar year;

13 (c) The amount of local sales and use tax and other revenue from
14 local public sources dedicated by any participating local government
15 used for the payment of bonds under RCW 39.104.110 and public
16 improvement costs within the revitalization area on a pay-as-you-go
17 basis in the preceding calendar year;

18 (d) The amount of local sales and use tax dedicated by the
19 sponsoring local government, as it relates to the sponsoring local
20 government's local sales and use tax increment, used for the payment
21 of bonds under RCW 39.104.110 and public improvement costs within the
22 revitalization area on a pay-as-you-go basis;

23 (e) The amounts, other than those listed in (a) through (d) of
24 this subsection, from local public sources, broken down by type or
25 source, used for payment of bonds under RCW 39.104.110 or public
26 improvement costs within the revitalization area on a pay-as-you-go
27 basis in the preceding calendar year;

28 (f) The anticipated date when bonds under RCW 39.104.110 are
29 expected to be retired;

30 (g) The names of any businesses locating within the
31 revitalization area as a result of the public improvements undertaken
32 by the sponsoring local government and financed in whole or in part
33 with local revitalization financing;

34

1 (h) An estimate of the cumulative number of permanent jobs
2 created in the revitalization area as a result of the public
3 improvements undertaken by the sponsoring local government and
4 financed in whole or in part with local revitalization financing;

5 (i) An estimate of the average wages and benefits received by all
6 employees of businesses locating within the revitalization area as a
7 result of the public improvements undertaken by the sponsoring local
8 government and financed in whole or in part with local revitalization
9 financing;

10 (j) A list of public improvements financed by bonds issued under
11 RCW 39.104.110 and the date on which the bonds are anticipated to be
12 retired;

13 (k) That the sponsoring local government is in compliance with
14 RCW 39.104.030;

15 (l) At least once every three years, updated estimates of the
16 amounts of state and local sales and use tax increments estimated to
17 have been received since the approval of the project award under RCW
18 39.104.100;

19 (m) The amount of revenues from local public sources that (i)
20 were expended in prior years for the payment of bonds under RCW
21 39.104.110 and public improvement costs within the revitalization
22 area on a pay-as-you-go basis in prior calendar years that were in
23 excess of the project award amount for that year and are carried
24 forward for dedication in future years, (ii) are deemed dedicated to
25 payment of bonds or public improvement costs in the calendar year for
26 which the report is prepared, and (iii) remain available for
27 dedication in future years; and

28 (n) Any other information required by the department to enable
29 the department to fulfill its duties under this chapter and RCW
30 82.14.510.

31 (2) The department must make a report available to the public and
32 the legislature by June 1st of each year. The report must include a
33 summary of the information provided to the department by sponsoring
34 local governments under subsection (1) of this section.

1 **Sec. 105.** RCW 82.32.770 and 2009 c 289 s 5 are each amended to
2 read as follows:

3 (1) Notwithstanding any other provision in this chapter, no
4 interest or penalties may be imposed on any taxpayer because of
5 errors in collecting or remitting the correct amount of local sales
6 or use tax arising out of changes in local sales and use tax sourcing
7 rules implemented under RCW 82.14.490 and section 502, chapter 6,
8 Laws of 2007 if the taxpayer demonstrates that it made a good faith
9 effort to comply with the sourcing rules.

10 (2) The relief from penalty and interest provided by subsection
11 (1) of this section only applies to taxpayers with a gross income of
12 the business of less than five hundred thousand dollars in the prior
13 calendar year.

14 (3) The relief from penalty and interest provided by subsection
15 (1) of this section does not apply with respect to sales occurring
16 after December 31, 2012.

17

18 **Sec. 106.** RCW 82.32.780 and 2020 c 139 s 40 are each amended to
19 read as follows:

20 (1)(a) Taxpayers seeking to obtain a new reseller permit or to
21 renew or reinstate a reseller permit, other than taxpayers subject to
22 the provisions of RCW 82.32.783, must apply to the department in a
23 form and manner prescribed by the department. The department must use
24 its best efforts to rule on applications within sixty days of
25 receiving a complete application. If the department fails to rule on
26 an application within sixty days of receiving a complete application,
27 the taxpayer may either request a review as provided in subsection
28 (6) of this section or resubmit the application. Nothing in this
29 subsection may be construed as preventing the department from ruling
30 on an application more than sixty days after the department received
31 the application.

32 (b) An application must be denied if:

33

34

1 (i) The department determines that, based on the nature of the
2 applicant's business, the applicant is not entitled to make purchases
3 at wholesale or is otherwise prohibited from using a reseller permit;

4 (ii) The application contains any material misstatement; or

5 (iii) The application is incomplete.

6 (c) The department may also deny an application if it determines
7 that denial would be in the best interest of collecting taxes due
8 under this title.

9 (d) The department's decision to approve or deny an application
10 may be based on tax returns previously filed with the department by
11 the applicant, a current or previous examination of the applicant's
12 books and records by the department, information provided by the
13 applicant in the master application and the reseller permit
14 application, and other information available to the department.

15 (e) The department must refuse to accept an application to renew
16 a reseller permit that is received more than ninety days before the
17 expiration of the reseller permit.

18 (2) Notwithstanding subsection (1) of this section, the
19 department may issue or renew a reseller permit for a taxpayer that
20 has not applied for the permit or renewal of the permit if it appears
21 to the department's satisfaction, based on the nature of the
22 taxpayer's business activities and any other information available to
23 the department, that the taxpayer is entitled to make purchases at
24 wholesale.

25 (3)(a) Except as otherwise provided in this section, reseller
26 permits issued, renewed, or reinstated under this section will be
27 valid for a period of forty-eight months from the date of issuance,
28 renewal, or reinstatement.

29 (b)(i) A reseller permit is valid for a period of twenty-four
30 months and may be renewed for the period prescribed in (a) of this
31 subsection (3) if the permit is issued to a taxpayer who:

32 (A) Is not registered with the department under RCW 82.32.030;

33

34

1 (B) Has been registered with the department under RCW 82.32.030
2 for a continuous period of less than one year as of the date that the
3 department received the taxpayer's application for a reseller permit;

4 (C) Was on nonreporting status as authorized under RCW
5 82.32.045(5) at the time that the department received the taxpayer's
6 application for a reseller permit or to renew or reinstate a reseller
7 permit;

8 (D) Has filed tax returns reporting no business activity for
9 purposes of sales and business and occupation taxes for the twelve-
10 month period immediately preceding the date that the department
11 received the taxpayer's application for a reseller permit or to renew
12 or reinstate a reseller permit; or

13 (E) Has failed to file tax returns covering any part of the
14 twelve-month period immediately preceding the department's receipt of
15 the taxpayer's application for a reseller permit or to renew or
16 reinstate a reseller permit.

17 (ii) The provisions of this subsection (3)(b) do not apply to
18 reseller permits issued to any business owned by a federally
19 recognized Indian tribe or by an enrolled member of a federally
20 recognized Indian tribe, if the business does not engage in any
21 business activity that subjects the business to any tax imposed by
22 the state under chapter 82.04 RCW. Permits issued to such businesses
23 are valid for the period provided in (a) of this subsection (3).

24 (iii) Nothing in this subsection (3)(b) may be construed as
25 affecting the department's right to deny a taxpayer's application for
26 a reseller permit or to renew or reinstate a reseller permit as
27 provided in subsection (1)(b) and (c) of this section.

28 (c) A reseller permit is no longer valid if the permit holder's
29 certificate of registration is revoked, the permit holder's tax
30 reporting account is closed by the department, or the permit holder
31 otherwise ceases to engage in business.

32 (d) The department may provide by rule for a uniform expiration
33 date for reseller permits issued, renewed, or reinstated under this
34 section, if the department determines that a uniform expiration date

1 for reseller permits will improve administrative efficiency for the
2 department. If the department adopts a uniform expiration date by
3 rule, the department may extend or shorten the twenty-four or forty-
4 eight month period provided in (a) and (b) of this subsection for a
5 period not to exceed six months as necessary to conform the reseller
6 permit to the uniform expiration date.

7 (4)(a) The department may revoke a taxpayer's reseller permit for
8 any of the following reasons:

9 (i) The taxpayer used or allowed or caused its reseller permit to
10 be used to purchase any item or service without payment of sales tax,
11 but the taxpayer or other purchaser was not entitled to use the
12 reseller permit for the purchase;

13 (ii) The department issued the reseller permit to the taxpayer in
14 error;

15 (iii) The department determines that the taxpayer is no longer
16 entitled to make purchases at wholesale; or

17 (iv) The department determines that revocation of the reseller
18 permit would be in the best interest of collecting taxes due under
19 this title.

20 (b) The notice of revocation must be in writing and is effective
21 on the date specified in the revocation notice. The notice must also
22 advise the taxpayer of its right to a review by the department.

23 (c) The department may refuse to reinstate a reseller permit
24 revoked under (a)(i) of this subsection until all taxes, penalties,
25 and interest due on any improperly purchased item or service have
26 been paid in full. In the event a taxpayer whose reseller permit has
27 been revoked under this subsection reorganizes, the new business
28 resulting from the reorganization is not entitled to a reseller
29 permit until all taxes, penalties, and interest due on any improperly
30 purchased item or service have been paid in full.

31 (d) For purposes of this subsection, "reorganize" or
32 "reorganization" means: (i) The transfer, however effected, of a
33 majority of the assets of one business to another business where any
34 of the persons having an interest in the ownership or management in

1 the former business maintain an ownership or management interest in
2 the new business, either directly or indirectly; (ii) a mere change
3 in identity or form of ownership, however effected; or (iii) the new
4 business is a mere continuation of the former business based on
5 significant shared features such as owners, personnel, assets, or
6 general business activity.

7 (5) The department may provide the public with access to reseller
8 permit numbers on its website, including the name of the permit
9 holder, the status of the reseller permit, the expiration date of the
10 permit, and any other information that is disclosable under RCW
11 82.32.330(3)(k).

12 (6) The department must provide by rule for the review of the
13 department's decision to deny, revoke, or refuse to reinstate a
14 reseller permit or the department's failure to rule on an application
15 within the time prescribed in subsection (1)(a) of this section. Such
16 review must be consistent with the requirements of chapter 34.05 RCW.

17 (7) As part of its continuing efforts to educate taxpayers on
18 their sales and use tax responsibilities, the department will educate
19 taxpayers on the appropriate use of a reseller permit or other
20 documentation authorized under RCW 82.04.470 and the consequences of
21 misusing such permits or other documentation.

22

23 **Sec. 107.** RCW 82.32.783 and 2024 c 252 s 3 are each amended to
24 read as follows:

25 (1)(a) Contractors seeking a new reseller permit or to renew or
26 reinstate a reseller permit must apply to the department in a form
27 and manner prescribed by the department.

28 (b) As part of the application, the contractor must report the
29 total combined dollar amount of all purchases of materials and labor
30 during the preceding 24 months for retail construction activity,
31 wholesale construction activity, speculative building, public road
32 construction, and government contracting. If the contractor was not
33 engaged in business as a contractor during the preceding 24 months,
34 the contractor may provide an estimate of the dollar amount of

1 purchases of materials and labor for retail construction activity,
2 wholesale construction activity, speculative building, public road
3 construction, and government contracting during the 12-month or 24-
4 month period for which the reseller permit will be valid. The
5 contractor must also report the percentage of its total dollar amount
6 of actual or, if applicable, estimated material and labor purchases
7 that was for retail and wholesale construction activity performed by
8 the applicant.

9 (c) The department must use its best efforts to rule on
10 applications within 60 days of receiving a complete application. If
11 the department fails to rule on an application within 60 days of
12 receiving a complete application, the taxpayer may either request a
13 review as provided in subsection (6) of this section or resubmit the
14 application. Nothing in this subsection may be construed as
15 preventing the department from ruling on an application more than 60
16 days after the department received the application.

17 (d)(i) An application must be denied if:

18 (A) The department determines that the applicant is not entitled
19 to make purchases at wholesale or is otherwise prohibited from using
20 a reseller permit;

21 (B) The application contains any material misstatement;

22 (C) The application is incomplete; or

23 (D) Less than 25 percent of the taxpayer's total dollar amount of
24 actual or, if applicable, estimated material and labor purchases as
25 reported on the application is for retail and wholesale construction
26 activity performed by the applicant. However, the department may
27 approve an application not meeting the criteria in this subsection
28 (1)(d)(i)(D) if the department is satisfied that approval is unlikely
29 to jeopardize collection of the taxes due under this title.

30 (ii) The department may also deny an application if the
31 department determines that denial would be in the best interest of
32 collecting taxes due under this title.

33 (iii) The department's decision to approve or deny an application
34 may be based on tax returns previously filed with the department by

1 the applicant, a current or previous examination of the applicant's
2 books and records by the department, information provided by the
3 applicant in the master application and the reseller permit
4 application, and other information available to the department.

5 (e) The department must refuse to accept an application to renew
6 a reseller permit that is received more than 90 days before the
7 expiration of the reseller permit.

8 (2) Notwithstanding subsection (1) of this section, the
9 department may issue or renew a reseller permit for a contractor that
10 has not applied for the permit or renewal of the permit if the
11 department is satisfied that the contractor is entitled to make
12 purchases at wholesale and that issuing or renewing the reseller
13 permit is unlikely to jeopardize collection of sales taxes due under
14 this title based on criteria established by the department by rule.
15 Such criteria may include but is not limited to whether the taxpayer
16 has a previous history of misusing resale certificates or reseller
17 permits or there is any other indication that issuing or renewing the
18 reseller permit would jeopardize collection of sales taxes due from
19 the contractor.

20 (3)(a) Except as otherwise provided in (b) of this subsection,
21 beginning July 1, 2013, reseller permits issued, renewed, or
22 reinstated under this section will be valid for a period of 24 months
23 from the date of issuance, renewal, or reinstatement.

24 (b)(i) A reseller permit is no longer valid if the permit
25 holder's certificate of registration is revoked, the permit holder's
26 tax reporting account is closed by the department, or the permit
27 holder otherwise ceases to engage in business.

28 (ii) The department may provide by rule for a uniform expiration
29 date for reseller permits issued, renewed, or reinstated under this
30 section, if the department determines that a uniform expiration date
31 for reseller permits will improve administrative efficiency for the
32 department. If the department adopts a uniform expiration date by
33 rule, the department may extend or shorten the 24-month period
34 provided in (a) of this subsection for a period not to exceed six

1 months as necessary to conform the reseller permit to the uniform
2 expiration date.

3 (4)(a) The department may revoke a contractor's reseller permit
4 for any of the following reasons:

5 (i) The contractor used or allowed or caused its reseller permit
6 to be used to purchase any item or service without payment of sales
7 tax, but the contractor or other purchaser was not entitled to use
8 the reseller permit for the purchase;

9 (ii) The department issued the reseller permit to the contractor
10 in error;

11 (iii) The department determines that the contractor is no longer
12 entitled to make purchases at wholesale; or

13 (iv) The department determines that revocation of the reseller
14 permit would be in the best interest of collecting taxes due under
15 this title.

16 (b) The notice of revocation must be in writing and is effective
17 on the date specified in the revocation notice. The notice must also
18 advise the contractor of its right to a review by the department.

19 (c) The department may refuse to reinstate a reseller permit
20 revoked under (a)(i) of this subsection until all taxes, penalties,
21 and interest due on any improperly purchased item or service have
22 been paid in full. In the event a contractor whose reseller permit
23 has been revoked under this subsection reorganizes, the new business
24 resulting from the reorganization is not entitled to a reseller
25 permit until all taxes, penalties, and interest due on any improperly
26 purchased item or service have been paid in full.

27 (d) For purposes of this subsection, "reorganize" or
28 "reorganization" means: (i) The transfer, however effected, of a
29 majority of the assets of one business to another business where any
30 of the persons having an interest in the ownership or management in
31 the former business maintain an ownership or management interest in
32 the new business, either directly or indirectly; (ii) a mere change
33 in identity or form of ownership, however effected; or (iii) the new
34 business is a mere continuation of the former business based on

1 significant shared features such as owners, personnel, assets, or
2 general business activity.

3 (5) The department may provide the public with access to reseller
4 permit numbers on its website, including the name of the permit
5 holder, the status of the reseller permit, the expiration date of the
6 permit, and any other information that is disclosable under RCW
7 82.32.330(3)(k).

8 (6) The department must provide by rule for the review of the
9 department's decision to deny, revoke, or refuse to reinstate a
10 reseller permit or the department's failure to rule on an application
11 within the time prescribed in subsection (1)(a) of this section. Such
12 review must be consistent with the requirements of chapter 34.05 RCW.

13 (7) As part of its continuing efforts to educate taxpayers on
14 their sales and use tax responsibilities, the department will educate
15 taxpayers on the appropriate use of a reseller permit or other
16 documentation authorized under RCW 82.04.470 and the consequences of
17 misusing such permits or other documentation.

18 (8) As used in this section, the following definitions apply:

19 (a) "Contractor" means a person whose primary business activity
20 is as a contractor which includes one or more contractor-related
21 activities as defined in RCW 18.27.010, 18.106.010, or 19.28.006.

22 (b) "Government contracting" means the activity described in RCW
23 82.04.190(6).

24 (c) "Public road construction" means the activity described in
25 RCW 82.04.190(3).

26 (d) "Retail construction activity" means any activity defined as
27 a retail sale in RCW 82.04.050(2) (b) or (c).

28 (e) "Speculative building" means the activities of a speculative
29 builder as the term "speculative builder" is defined by rule of the
30 department.

31 (f) "Wholesale construction activity" means labor and services
32 rendered for persons who are not consumers in respect to real
33 property, if such labor and services are expressly defined as a
34 retail sale by RCW 82.04.050 when rendered to or for consumers. For

1 purposes of this subsection (8)(f), "consumer" has the same meaning
2 as in RCW 82.04.190.

3

4 **Sec. 108.** RCW 82.32.784 and 2010 c 112 s 4 are each amended to
5 read as follows:

6 (1) Reseller permits issued by the department, as provided under
7 RCW 82.32.780 and 82.32.783, will be in a form prescribed by the
8 department, which may include an electronic form. Reseller permits
9 must contain the following information:

10 (a) A unique identifying number assigned by the department;

11 (b) The name and address of the permit holder;

12 (c) The type of business engaged in;

13 (d) The date the permit was issued, renewed, or reinstated by the
14 department; and

15 (e) The expiration date of the permit.

16 (2) Reseller permits may also contain such other information as
17 required by the department, including, but not limited to:

18 (a) The categories of items or services to be purchased for
19 resale or that are otherwise to be purchased at wholesale;

20 (b) The date that the permit was provided to the seller;

21 (c) A statement that the items or services purchased either: (i)
22 Are purchased for resale in the regular course of business; or (ii)
23 are otherwise purchased at wholesale;

24 (d) A statement that the permit holder acknowledges that misuse
25 of [a] reseller permit or reseller permit number subjects the permit
26 holder to revocation of the reseller permit, penalties as provided in
27 RCW 82.32.290 and 82.32.291, in addition to the tax, interest, and
28 any other penalties imposed by law;

29 (e) Instructions for renewing the permit;

30 (f) A statement that the department is authorized to obtain
31 information concerning the permit holder's purchase of items or
32 services under the permit from the seller to verify whether the
33 permit holder was authorized to purchase such items or services
34 without payment of retail sales tax; and

1 (g) The signature of the permit holder, unless a copy of the
2 permit is provided to the seller in a format other than paper.

3
4 **Sec. 109.** RCW 82.32.785 and 2010 c 112 s 5 are each amended to
5 read as follows:

6 The department of revenue must, by January 1, 2011, develop a
7 system, as resources permit, allowing sellers to voluntarily verify
8 through electronic means whether their customers' reseller permits
9 are valid.

10

11 **Sec. 110.** RCW 82.32.787 and 2010 c 112 s 6 are each amended to
12 read as follows:

13 A person must, upon request of the department, provide the
14 department with paper or electronic copies of all reseller permits,
15 or other documentation as authorized in RCW 82.04.470, accepted by
16 that person during the period specified by the department to
17 substantiate wholesale sales. If, instead of the documentation
18 specified in this subsection, the seller has retained the relevant
19 data elements from such permits or other documentation authorized in
20 RCW 82.04.470, as allowed under the streamlined sales and use tax
21 agreement, the seller must provide such data elements to the
22 department.

23

24 **Sec. 111.** RCW 82.32.790 and 2024 c 261 s 1 are each amended to
25 read as follows:

26 (1)(a) RCW 82.04.426, 82.04.448, 82.08.965, 82.08.970, 82.12.965,
27 82.12.970, 84.36.645, and 82.04.241 are contingent upon the siting
28 and commercial operation of a significant semiconductor microchip
29 fabrication facility in the state of Washington by January 1, 2034.

30 (b) For the purposes of this section:

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

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

1 (iii) "Significant" means the combined investment of new
2 buildings and new machinery and equipment in the buildings, at the
3 commencement of commercial production, will be at least \$500,000,000.

4 (2) The sections referenced in subsection (1) of this section
5 take effect the first day of the month in which a contract for the
6 construction of a significant semiconductor fabrication facility is
7 signed, if the contract is signed and received by January 1, 2034, as
8 determined by the director of the department of revenue.

9 (3)(a) The department of revenue must provide notice of the
10 effective date of the sections referenced in subsection (1) of this
11 section to affected taxpayers, the legislature, the office of the
12 code reviser, and others as deemed appropriate by the department.

13 (b) If, after making a determination that a contract has been
14 signed and the sections referenced in subsection (1) of this section
15 are effective, the department discovers that commencement of
16 commercial production did not take place within three years of the
17 date the contract was signed, the department must make a
18 determination that are no longer effective, and all taxes that would
19 have been otherwise due are deemed deferred taxes and are immediately
20 assessed and payable from any person reporting tax under RCW
21 82.04.241 or claiming an exemption or credit under RCW 82.04.426,
22 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645.
23 The department is not authorized to make a second determination
24 regarding the effective date of the sections referenced in subsection
25 (1) of this section.

26 (4)(a) This section expires January 1, 2034, if the contingency
27 in subsection (2) of this section does not occur by January 1, 2034,
28 as determined by the department.

29 (b) The department must provide written notice of the expiration
30 date of this section and the sections referenced in subsection (1) of
31 this section to affected taxpayers, the legislature, the office of
32 the code reviser, and others as deemed appropriate by the department.

33

34

1 **Sec. 112.** RCW 82.32.800 and 2011 1st sp.s. c 13 s 10 are each
2 amended to read as follows:

3 A person eligible for the high-technology research and
4 development tax credit under *RCW 82.04.4452 may contribute all or
5 any portion of the credit to the opportunity expansion account hereby
6 created in the state treasury. The department must create the forms
7 and processes to allow a person to make such an election easily and
8 quickly by means of checking a box. By May 1, 2012, and by May 1st of
9 every year thereafter, the department must report the amount so
10 contributed and certify the amount to the state treasurer. By July 1,
11 2012, and by July 1st of every year thereafter, the state treasurer
12 must transfer the amount into the opportunity expansion account.
13 Money in the account may only be appropriated for the purposes
14 specified in RCW 28B.145.060.

15
16 **Sec. 113.** RCW 82.32.805 and 2021 c 145 s 20 are each amended to
17 read as follows:

18 (1)(a) Except as otherwise provided in this section, every new
19 tax preference expires on the first day of the calendar year that is
20 subsequent to the calendar year that is ten years from the effective
21 date of the tax preference. With respect to any new property tax
22 exemption, the exemption does not apply to taxes levied for
23 collection beginning in the calendar year that is subsequent to the
24 calendar year that is ten years from the effective date of the tax
25 preference.

26 (b) If a new tax preference applies to both a state tax and a
27 corresponding local tax that the department administers, such as a
28 state and local sales and use tax exemption, the expiration of that
29 new tax preference under this subsection applies to both the state
30 and local tax.

31 (c) A future amendment that expands a tax preference does not
32 extend the tax preference beyond the period provided in this
33 subsection unless an extension is expressly and unambiguously stated
34 in the amendment.

1 (2) Subsection (1) of this section does not apply if legislation
2 creating a new tax preference includes an expiration date for the new
3 tax preference or an exemption from this section in its entirety or
4 from the provisions of subsection (1) of this section, whether or not
5 such exemption is codified.

6 (3) Subsection (1) of this section does not apply to any existing
7 tax preference that is amended to clarify an ambiguity or correct a
8 technical inconsistency. Future enacted legislation intended to make
9 such clarifications or corrections must explicitly indicate this
10 intent.

11 (4) For the purposes of this section, the following definitions
12 apply:

13 (a) "New tax preference" means a tax preference that initially
14 takes effect after August 1, 2013, or a tax preference in effect as
15 of August 1, 2013, that is expanded or extended after August 1, 2013,
16 even if the expanding or extending amendment includes any other
17 change to the tax preference.

18 (b) "Tax preference" has the same meaning as in RCW 43.136.021
19 with respect to any state tax administered by the department, except
20 does not include the Washington estate and transfer tax in chapter
21 83.100 RCW.

22 (5) The department must provide written notice to the office of
23 the code reviser of a ten-year expiration date required under this
24 section for a new tax preference.

25
26 **Sec. 114.** RCW 82.32.808 and 2020 c 139 s 58 are each amended to
27 read as follows:

28 (1) As provided in this section, every bill enacting a new tax
29 preference must include a tax preference performance statement,
30 unless the legislation enacting the new tax preference contains an
31 explicit exemption from the requirements of this section.

32 (2) A tax preference performance statement must state the
33 legislative purpose for the new tax preference. The tax preference
34 performance statement must indicate one or more of the following

1 general categories, by reference to the applicable category specified
2 in this subsection, as the legislative purpose of the new tax
3 preference:

4 (a) Tax preferences intended to induce certain designated
5 behavior by taxpayers;

6 (b) Tax preferences intended to improve industry competitiveness;

7 (c) Tax preferences intended to create or retain jobs;

8 (d) Tax preferences intended to reduce structural inefficiencies
9 in the tax structure;

10 (e) Tax preferences intended to provide tax relief for certain
11 businesses or individuals; or

12 (f) A general purpose not identified in (a) through (e) of this
13 subsection.

14 (3) In addition to identifying the general legislative purpose of
15 the tax preference under subsection (2) of this section, the tax
16 preference performance statement must provide additional detailed
17 information regarding the legislative purpose of the new tax
18 preference.

19 (4) A new tax preference performance statement must specify
20 clear, relevant, and ascertainable metrics and data requirements that
21 allow the joint legislative audit and review committee and the
22 legislature to measure the effectiveness of the new tax preference in
23 achieving the purpose designated under subsection (2) of this
24 section.

25 (5) If the tax preference performance statement for a new tax
26 preference indicates a legislative purpose described in subsection
27 (2)(b) or (c) of this section, any taxpayer claiming the new tax
28 preference must file an annual tax performance report in accordance
29 with RCW 82.32.534.

30 (6)(a) Taxpayers claiming a new tax preference must report the
31 amount of the tax preference claimed by the taxpayer to the
32 department as otherwise required by statute or determined by the
33 department as part of the taxpayer's regular tax reporting
34 responsibilities. For new tax preferences allowing certain types of

1 gross income of the business to be excluded from business and
2 occupation or public utility taxation, the tax return must explicitly
3 report the amount of the exclusion, regardless of whether it is
4 structured as an exemption or deduction, if the taxpayer is otherwise
5 required to report taxes to the department on a monthly or quarterly
6 basis. For a new sales and use tax exemption, the total purchase
7 price or value of the exempt product or service subject to the
8 exemption claimed by the buyer must be reported on an addendum to the
9 buyer's tax return if the buyer is otherwise required to report taxes
10 to the department on a monthly or quarterly basis and the buyer is
11 required to submit an exemption certificate, or similar document, to
12 the seller.

13 (b) This subsection does not apply to:

14 (i) Property tax exemptions;

15 (ii) Tax preferences required by constitutional law;

16 (iii) Tax preferences for which the tax benefit to the taxpayer
17 is less than one thousand dollars per calendar year; or

18 (iv) Taxpayers who are annual filers.

19 (c) The department may waive the filing requirements of this
20 subsection for taxpayers who are not required to file electronically
21 any return or report under this chapter.

22 (7)(a) Except as otherwise provided in this subsection, the
23 amount claimed by a taxpayer for any new tax preference is subject to
24 public disclosure and is not considered confidential tax information
25 under RCW 82.32.330, if the reporting periods subject to disclosure
26 ended at least twenty-four months prior to the date of disclosure and
27 the taxpayer is required to report the amount of the tax preference
28 claimed by the taxpayer to the department under subsection (6) of
29 this section.

30 (b)(i) The department may waive the public disclosure requirement
31 under (a) of this subsection (7) for good cause. Good cause may be
32 demonstrated by a reasonable showing of economic harm to a taxpayer
33 if the information specified under this subsection is disclosed. The
34

1 waiver under this subsection (7)(b)(i) only applies to the new tax
2 preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

3 (ii) The amount of the tax preference claimed by a taxpayer
4 during a calendar year is confidential under RCW 82.32.330 and may
5 not be disclosed under this subsection if the amount for the calendar
6 year is less than ten thousand dollars.

7 (c) In lieu of the disclosure and waiver requirements under this
8 subsection, the requirements under RCW 82.32.534 apply to any tax
9 preference that requires a tax performance report.

10 (8) If a new tax preference does not include the information
11 required under subsections (2) through (4) of this section, the joint
12 legislative audit and review committee is not required to perform a
13 tax preference review under chapter 43.136 RCW, and it is
14 legislatively presumed that it is the intent of the legislature to
15 allow the new tax preference to expire upon its scheduled expiration
16 date.

17 (9) For the purposes of this section, "tax preference" and "new
18 tax preference" have the same meaning as provided in RCW 82.32.805.

19 (10) The provisions of this section do not apply to the extent
20 that legislation creating a new tax preference provides an exemption,
21 in whole or in part, from this section, whether or not such exemption
22 is codified.

23

24 **Sec. 115.** RCW 82.32.850 and 2013 3rd sp.s. c 2 s 2 are each
25 amended to read as follows:

26 (1) Chapter 2, Laws of 2013 3rd sp. sess. takes effect contingent
27 upon the siting of a significant commercial airplane manufacturing
28 program in the state of Washington. If a significant commercial
29 airplane manufacturing program is not sited in the state of
30 Washington by June 30, 2017, chapter 2, Laws of 2013 3rd sp. sess.
31 does not take effect.

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

34

1 (a) "Commercial airplane" has the same meaning provided in RCW
2 82.32.550.

3 (b) "New model, or any version or variant of an existing model,
4 of a commercial airplane" means a commercial airplane manufactured
5 with a carbon fiber composite fuselage or carbon fiber composite
6 wings or both.

7 (c) "Significant commercial airplane manufacturing program" means
8 an airplane program in which the following products, including final
9 assembly, will commence manufacture at a new or existing location
10 within Washington state on or after July 9, 2014:

11 (i) The new model, or any version or variant of an existing
12 model, of a commercial airplane; and

13 (ii) Fuselages and wings of a new model, or any version or
14 variant of an existing model, of a commercial airplane.

15 (d) "Siting" means a final decision, made on or after November 1,
16 2013, by a manufacturer to locate a significant commercial airplane
17 manufacturing program in Washington state.

18 (3) The department must make a determination regarding whether
19 the contingency in subsection (1) of this section occurs and must
20 provide written notice of the date on which such contingency occurs
21 and chapter 2, Laws of 2013 3rd sp. sess. takes effect. If the
22 department determines that the contingency in subsection (1) of this
23 section has not occurred by June 30, 2017, the department must
24 provide written notice stating that chapter 2, Laws of 2013 3rd sp.
25 sess. does not take effect. Written notice under this subsection (3)
26 must be provided to affected parties, the chief clerk of the house of
27 representatives, the secretary of the senate, the office of the code
28 reviser, and others as deemed appropriate by the department.

29
30 **Sec. 116.** RCW 82.32.860 and 2014 c 216 s 406 are each amended to
31 read as follows:

32 (1) By the last workday of the second and fourth calendar
33 quarters, the state treasurer must transfer the amount specified in
34 subsection (2) of this section from the general fund to the motor

1 vehicle fund established under RCW 46.68.070. The first transfer
2 under this subsection must occur by December 31, 2017.

3 (2) By December 15th and by June 15th of each year, the
4 department must estimate the increase in state general fund revenues
5 from the taxes collected under RCW 82.08.0261(2)(a) on the nonexempt
6 portion of liquefied natural gas sales in the current and prior
7 calendar quarters and notify the state treasurer of the increase.

8 (3) This section expires July 1, 2028.

9

10 **Sec. 117.** RCW 82.32.865 and 2021 c 150 s 3 are each amended to
11 read as follows:

12 (1) A nonresident vessel owner that is not a natural person, or a
13 nonresident vessel owner who intends to charter the vessel with a
14 captain or crew as provided in RCW 88.02.620(1)(b)(ii), must apply
15 directly to the department for written approval to obtain a
16 nonresident vessel permit under RCW 88.02.620. The application must
17 be made to the department in a form and manner prescribed by the
18 department and must include:

19 (a) The name of the record owner of the vessel;

20 (b) The name, address, and telephone number of the individual
21 that applied for the permit;

22 (c) The record owner's address and telephone number;

23 (d) The vessel's hull identification number;

24 (e) The vessel year, make, and model;

25 (f) The vessel length;

26 (g) The vessel's registration or numbering under the state of
27 principal operation or the valid number under federal law;

28 (h) Proof of the person's current nonresident status, including,
29 as applicable, certified copies of the filed articles of
30 incorporation, a certificate of formation, or similar filings;

31 (i) Proof of the identity and current residency of the natural
32 person owning the charter vessel or all principals of the nonresident
33 person owning the vessel. Such proof may include a valid driver's
34 license verifying out-of-state residency or a valid identification

1 card that has a photograph of the holder and is issued by an out-of-
2 state jurisdiction;

3 (j) An affidavit signed by the owner of the nonresident charter
4 vessel, or by a principal of the entity owning the nonresident
5 vessel, certifying that the owner is not a Washington resident or
6 that no Washington residents are principals of the nonresident vessel
7 owner, as the case may be; and

8 (k) Any other information the department may require.

9 (2) The department must determine the nonresident vessel owner's
10 eligibility for the permit, as provided in RCW 88.02.620. The
11 department may require additional proof of eligibility directly from
12 the nonresident vessel owner.

13 (3)(a) If the department determines that the nonresident vessel
14 owner has established by clear, cogent, and convincing evidence that
15 it is eligible for the permit, the department must provide written
16 approval to the nonresident vessel owner that authorizes issuance of
17 the permit and includes the name of the nonresident vessel owner, the
18 name of the vessel, and the hull identification number. Otherwise,
19 the department must refuse to authorize the issuance of the permit.

20 (b) The department must also provide the information in the
21 written approval to the department of licensing.

22 (4)(a) If, after a permit has been issued under RCW 88.02.620,
23 the department has reason to believe that the nonresident vessel
24 owner was not eligible for the permit approved under subsection (3)
25 of this section, the department may request such information from the
26 nonresident vessel owner as the department determines is necessary to
27 conduct a review of the nonresident vessel owner's eligibility.

28 (b) If the department finds the nonresident person was not
29 eligible for the permit, the department must assess against the
30 nonresident person state and local use tax on the value of the vessel
31 according to the "value of the article used" as defined in RCW
32 82.12.010. The department must also assess against the nonresident
33 person any watercraft excise tax due under chapter 82.49 RCW.

34

1 Penalties and interest as provided in this chapter and chapter 82.49
2 RCW apply to taxes assessed under this subsection (4).

3 (5) For purposes of this section, "principal" means a natural
4 person that owns, directly or indirectly, including through any
5 tiered ownership structure, more than a one percent interest in the
6 nonresident person applying for a nonresident vessel permit.

7 (6) By January 1, 2026, the department must submit a report to
8 the governor and the transportation and fiscal committees of the
9 legislature. The report must include:

10 (a) The number of nonresident vessel permits the department
11 authorized for approval in each calendar year since September 1,
12 2015, and the length of such vessels;

13 (b) The number of nonresident vessel permits the department
14 authorized for approval in each calendar year since July 25, 2021,
15 for vessels chartered with a captain or crew;

16 (c) Information about the state or country where the vessels
17 described in (a) and (b) of this subsection are primarily operated;

18 (d) The amount of use tax collected on vessels described in (b)
19 of this subsection;

20 (e) A discussion of any evidence of fraud or attempted fraud
21 related to nonresident vessel permits or permit applications; and

22 (f) Any other information the department determines may be
23 relevant.

24 (7) The department may adopt rules to implement this section.

25

26 **Sec. 118.** RCW 82.32.865 and 2015 3rd sp.s. c 6 s 805 are each
27 amended to read as follows:

28 (1) A nonresident vessel owner that is not a natural person must
29 apply directly to the department for written approval to obtain a
30 nonresident vessel permit under RCW 88.02.620. The application must
31 be made to the department in a form and manner prescribed by the
32 department and must include:

33 (a) The name of the record owner of the vessel;

34

1 (b) The name, address, and telephone number of the individual
2 that applied for the permit on behalf of the nonresident person;
3 (c) The record owner's address and telephone number;
4 (d) The vessel's hull identification number;
5 (e) The vessel year, make, and model;
6 (f) The vessel length;
7 (g) The vessel's registration or numbering under the state of
8 principal operation or the valid number under federal law;
9 (h) Proof of the person's current nonresident status, including
10 certified copies of the filed articles of incorporation, a
11 certificate of formation, or similar filings;
12 (i) Proof of the identity and current residency of all principals
13 of the nonresident person. Such proof may include a valid driver's
14 license verifying out-of-state residency or a valid identification
15 card that has a photograph of the holder and is issued by an out-of-
16 state jurisdiction;
17 (j) An affidavit signed by a principal of the nonresident vessel
18 owner certifying that no Washington residents are principals of the
19 nonresident vessel owner; and
20 (k) Any other information the department may require.
21 (2) The department must determine the nonresident vessel owner's
22 eligibility for the permit, as provided in RCW 88.02.620, and may
23 request additional information as needed directly from the
24 nonresident vessel owner.
25 (3)(a) If the nonresident vessel owner appears eligible for the
26 permit, the department must provide written approval to the
27 nonresident vessel owner that authorizes issuance of the permit and
28 includes the name of the nonresident vessel owner, the name of the
29 vessel, and the hull identification number. After November 30, 2025,
30 the department may not provide written approval for any permits under
31 this subsection.
32 (b) The department must also provide the information in the
33 written approval to the department of licensing.
34

1 (4)(a) If, after a permit has been issued under RCW 88.02.620,
2 the department has reason to believe that the nonresident vessel
3 owner was not eligible for the permit approved under subsection (3)
4 of this section, the department may request such information from the
5 nonresident vessel owner as the department determines is necessary to
6 conduct a review of the nonresident vessel owner's eligibility.

7 (b) If the department finds the nonresident person was not
8 eligible for the permit, the department must assess against the
9 nonresident person state and local use tax on the value of the vessel
10 according to the "value of the article used" as defined in RCW
11 82.12.010. The department must also assess against the nonresident
12 person any watercraft excise tax due under chapter 82.49 RCW.
13 Penalties and interest as provided in this chapter and chapter 82.49
14 RCW apply to taxes assessed under this subsection (4).

15 (5) For purposes of this section, "principal" means a natural
16 person that owns, directly or indirectly, including through any
17 tiered ownership structure, more than a one percent interest in the
18 nonresident person applying for a nonresident vessel permit.

19 (6) The department may adopt rules to implement this section.
20

21 **Sec. 119.** RCW 82.32.870 and 2019 c 445 s 401 are each amended to
22 read as follows:

23 (1) By October 15, 2020, and by each October 15th thereafter, the
24 department must estimate any increase in state general fund revenue
25 collections for the immediately preceding fiscal year resulting from
26 the taxes imposed in chapter 445, Laws of 2019. The department must
27 promptly notify the state treasurer of these estimated amounts.

28 (2) Beginning November 1, 2020, and by each November 1st
29 thereafter, the state treasurer must transfer from the general fund
30 the estimated amount determined by the department under subsection
31 (1) of this section for the immediately preceding fiscal year as
32 follows:

33 (a) Fifty percent into the Andy Hill cancer research endowment
34 fund match transfer account created in RCW 43.348.080; and

1 (b) Fifty percent into the foundational public health services
2 account created in RCW 82.25.015.

3 (3) The department may not make any adjustments to an estimate
4 under subsection (1) of this section after the state treasurer makes
5 the corresponding distribution under subsection (2) of this section
6 based on the department's estimate.

7

8 **Sec. 120.** RCW 82.32.900 and 2014 c 216 s 209 are each amended to
9 read as follows:

10 (1) The department of licensing must convene a work group that
11 includes, at a minimum, representatives from the department of
12 transportation, the trucking industry, manufacturers of compressed
13 natural gas and liquefied natural gas, and any other stakeholders as
14 deemed necessary, for the following purposes:

15 (a) To evaluate the annual license fee in lieu of fuel tax under
16 RCW 82.38.075 to determine a fee that more closely represents the
17 average consumption of vehicles by weight and to make recommendations
18 to the transportation committees of the legislature by December 1,
19 2014, on an updated fee schedule.

20 (b) To develop a transition plan to move vehicles powered by
21 liquefied natural gas and compressed natural gas from the annual
22 license fee in lieu of fuel tax to the fuel tax under RCW 82.38.030.
23 The transition plan must incorporate stakeholder feedback and must
24 include draft legislation and cost and revenue estimates. The
25 transition plan must be submitted to the transportation committees of
26 the legislature by December 1, 2015.

27 (2) The department of revenue must convene a work group that
28 includes, at a minimum, representatives from the department of
29 transportation, the marine shipping industry, manufacturers of
30 liquefied natural gas, and any other stakeholders as deemed
31 necessary, for the purpose of examining the appropriate level and
32 manner of taxing liquefied natural gas used for marine vessel
33 transportation. The department must make recommendations to the
34 fiscal committees of the legislature by December 1, 2025.

1 **Sec. 121.** RCW 82.32A.002 and 1991 c 142 s 1 are each amended to
2 read as follows:

3 This chapter shall be known and cited as "Washington taxpayers'
4 rights and responsibilities."
5

6 **Sec. 122.** RCW 82.32A.005 and 1991 c 142 s 2 are each amended to
7 read as follows:

8 (1) The legislature finds that taxes are one of the most
9 sensitive points of contact between citizens and their government,
10 and that there is a delicate balance between revenue collection and
11 taxpayers' rights and responsibilities. The rights, privacy, and
12 property of Washington taxpayers should be protected adequately
13 during the process of the assessment and collection of taxes.

14 (2) The legislature further finds that the Washington tax system
15 is based largely on voluntary compliance and that taxpayers have a
16 responsibility to inform themselves about applicable tax laws. The
17 legislature also finds that the rights of the taxpayers and their
18 attendant responsibilities are best implemented where the department
19 of revenue provides accurate tax information, instructions, forms,
20 administrative policies, and procedures to assist taxpayers to
21 voluntarily comply with the provisions of the revenue act, Title 82
22 RCW, and where taxpayers cooperate in the administration of these
23 provisions.
24

25 **Sec. 123.** RCW 82.32A.010 and 1991 c 142 s 3 are each amended to
26 read as follows:

27 The department of revenue shall administer this chapter. The
28 department of revenue shall adopt or amend rules as may be necessary
29 to fully implement this chapter and the rights established under this
30 chapter.
31

32 **Sec. 124.** RCW 82.32A.020 and 1991 c 142 s 4 are each amended to
33 read as follows:

34 The taxpayers of the state of Washington have:

1 (1) The right to a written explanation of the basis for any tax
2 deficiency assessment, interest, and penalties at the time the
3 assessments are issued;

4 (2) The right to rely on specific, official written advice and
5 written tax reporting instructions from the department of revenue to
6 that taxpayer, and to have interest, penalties, and in some
7 instances, tax deficiency assessments waived where the taxpayer has
8 so relied to their proven detriment;

9 (3) The right to redress and relief where tax laws or rules are
10 found to be unconstitutional by the final decision of a court of
11 record and the right to prompt administrative remedies in such cases;

12 (4) The right to confidentiality and protection from public
13 inquiry regarding financial and business information in the
14 possession of the department of revenue in accordance with the
15 requirements of RCW 82.32.330;

16 (5) The right to receive, upon request, clear and current tax
17 instructions, rules, procedures, forms, and other tax information;
18 and

19 (6) The right to a prompt and independent administrative review
20 by the department of revenue of a decision to revoke a tax
21 registration, and to a written determination that either sustains the
22 revocation or reinstates the registration.

23

24 **Sec. 125.** RCW 82.32A.030 and 1991 c 142 s 5 are each amended to
25 read as follows:

26 To ensure consistent application of the revenue laws, taxpayers
27 have certain responsibilities under chapter 82.32 RCW, including, but
28 not limited to, the responsibility to:

29 (1) Register with the department of revenue;

30 (2) Know their tax reporting obligations, and when they are
31 uncertain about their obligations, seek instructions from the
32 department of revenue;

33 (3) Keep accurate and complete business records;

34 (4) File accurate returns and pay taxes in a timely manner;

1 (5) Ensure the accuracy of the information entered on their tax
2 returns;

3 (6) Substantiate claims for refund;

4 (7) Timely pay all taxes after closing a business and request
5 cancellation of registration number; and

6 (8) Timely respond to communications from the department of
7 revenue.

8

9 **Sec. 126.** RCW 82.32A.040 and 1991 c 142 s 6 are each amended to
10 read as follows:

11 The director of revenue shall appoint a taxpayer rights advocate.
12 The advocate shall be responsible for directly assisting taxpayers
13 and their representatives to assure their understanding and
14 utilization of the policies, processes, and procedures available to
15 them in the resolution of problems.

16

17 **Sec. 127.** RCW 82.32A.050 and 1991 c 142 s 7 are each amended to
18 read as follows:

19 The department of revenue shall maintain a taxpayer services
20 program consisting of, but not limited to:

21 (1) Providing taxpayer assistance in the form of information,
22 education, and instruction in person, by telephone, or by
23 correspondence;

24 (2) Conducting tax workshops at locations most conveniently
25 accessible to the majority of taxpayers affected; and

26 (3) Publishing written bulletins, instructions, current revenue
27 laws, rules, court decisions, and interpretive rulings of the
28 department of revenue.

29

30

31

EFFECT:

--- END ---