
ENGROSSED SENATE BILL 5309

State of Washington

68th Legislature

2023 Regular Session

By Senators Lovelett, Rolfes, Hasegawa, Hunt, Keiser, Nguyen, and Nobles

Read first time 01/12/23. Referred to Committee on Ways & Means.

1 AN ACT Relating to eliminating the state public utility tax
2 deduction for the instate portion of interstate transport of
3 petroleum products and crude oil; amending RCW 82.16.010; adding new
4 sections to chapter 82.16 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 82.16.010 and 2015 3rd sp.s. c 6 s 702 are each
7 amended to read as follows:

8 For the purposes of this chapter, unless otherwise required by
9 the context:

10 (1) "Crude oil" has the same meaning as provided in RCW
11 82.23B.010.

12 (2) "Express business" means the business of carrying property
13 for public hire on the line of any common carrier operated in this
14 state, when such common carrier is not owned or leased by the person
15 engaging in such business.

16 ((+2)) (3) "Gas distribution business" means the business of
17 operating a plant or system for the production or distribution for
18 hire or sale of gas, whether manufactured or natural.

19 ((+3)) (4) "Gross income" means the value proceeding or accruing
20 from the performance of the particular public service or
21 transportation business involved, including operations incidental

1 thereto, but without any deduction on account of the cost of the
2 commodity furnished or sold, the cost of materials used, labor costs,
3 interest, discount, delivery costs, taxes, or any other expense
4 whatsoever paid or accrued and without any deduction on account of
5 losses.

6 ~~((4))~~ (5) "Light and power business" means the business of
7 operating a plant or system for the generation, production or
8 distribution of electrical energy for hire or sale and/or for the
9 wheeling of electricity for others.

10 ~~((5))~~ (6) "Log transportation business" means the business of
11 transporting logs by truck, except when such transportation meets the
12 definition of urban transportation business or occurs exclusively
13 upon private roads.

14 ~~((6))~~ (7) "Motor transportation business" means the business
15 (except urban transportation business) of operating any motor
16 propelled vehicle by which persons or property of others are conveyed
17 for hire, and includes, but is not limited to, the operation of any
18 motor propelled vehicle as an auto transportation company (except
19 urban transportation business), common carrier, or contract carrier
20 as defined by RCW 81.68.010 and 81.80.010. However, "motor
21 transportation business" does not mean or include: (a) A log
22 transportation business; or (b) the transportation of logs or other
23 forest products exclusively upon private roads or private highways.

24 ~~((7))~~ (8) "Packaged for sale to ultimate consumers" means
25 petroleum products that are prepared and packaged for sale at usual
26 and ordinary retail outlets. The term includes containerized motor
27 oil, lubricants, and aerosol solvents.

28 (9) "Petroleum products" has the same meaning as provided in RCW
29 82.21.020.

30 (10) (a) "Public service business" means any of the businesses
31 defined in subsections ~~((1))~~ (2), ~~((4), (6))~~ (3), (5), (7),
32 ~~((8), (9), (10))~~ (11), (12), (13), (15), and ~~((13))~~ (16) of this
33 section or any business subject to control by the state, or having
34 the powers of eminent domain and the duties incident thereto, or any
35 business hereafter declared by the legislature to be of a public
36 service nature, except telephone business and low-level radioactive
37 waste site operating companies as redefined in RCW 81.04.010. It
38 includes, among others, without limiting the scope hereof: Airplane
39 transportation, boom, dock, ferry, pipe line, toll bridge, toll
40 logging road, water transportation and wharf businesses.

1 (b) The definitions in this subsection (~~(7)~~) (10)(b) apply
2 throughout this subsection (~~(7)~~) (10).

3 (i) "Competitive telephone service" has the same meaning as in
4 RCW 82.04.065.

5 (ii) "Network telephone service" means the providing by any
6 person of access to a telephone network, telephone network switching
7 service, toll service, or coin telephone services, or the providing
8 of telephonic, video, data, or similar communication or transmission
9 for hire, via a telephone network, toll line or channel, cable,
10 microwave, or similar communication or transmission system. "Network
11 telephone service" includes the provision of transmission to and from
12 the site of an internet provider via a telephone network, toll line
13 or channel, cable, microwave, or similar communication or
14 transmission system. "Network telephone service" does not include the
15 providing of competitive telephone service, the providing of cable
16 television service, the providing of broadcast services by radio or
17 television stations, nor the provision of internet access as defined
18 in RCW 82.04.297, including the reception of dial-in connection,
19 provided at the site of the internet service provider.

20 (iii) "Telephone business" means the business of providing
21 network telephone service. It includes cooperative or farmer line
22 telephone companies or associations operating an exchange.

23 (iv) "Telephone service" means competitive telephone service or
24 network telephone service, or both, as defined in (b)(i) and (ii) of
25 this subsection.

26 (~~(8)~~) (11) "Railroad business" means the business of operating
27 any railroad, by whatever power operated, for public use in the
28 conveyance of persons or property for hire. It shall not, however,
29 include any business herein defined as an urban transportation
30 business.

31 (~~(9)~~) (12) "Railroad car business" means the business of
32 operating stock cars, furniture cars, refrigerator cars, fruit cars,
33 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
34 tourist cars, or any other kinds of cars used for transportation of
35 property or persons upon the line of any railroad operated in this
36 state when such railroad is not owned or leased by the person
37 engaging in such business.

38 (~~(10)~~) (13) "Telegraph business" means the business of
39 affording telegraphic communication for hire.

1 (~~(11)~~) (14) "Tugboat business" means the business of operating
2 tugboats, towboats, wharf boats or similar vessels in the towing or
3 pushing of vessels, barges or rafts for hire.

4 (~~(12)~~) (15) "Urban transportation business" means the business
5 of operating any vehicle for public use in the conveyance of persons
6 or property for hire, insofar as (a) operating entirely within the
7 corporate limits of any city or town, or within five miles of the
8 corporate limits thereof, or (b) operating entirely within and
9 between cities and towns whose corporate limits are not more than
10 five miles apart or within five miles of the corporate limits of
11 either thereof. Included herein, but without limiting the scope
12 hereof, is the business of operating passenger vehicles of every type
13 and also the business of operating cartage, pickup, or delivery
14 services, including in such services the collection and distribution
15 of property arriving from or destined to a point within or without
16 the state, whether or not such collection or distribution be made by
17 the person performing a local or interstate line-haul of such
18 property.

19 (~~(13)~~) (16) "Water distribution business" means the business of
20 operating a plant or system for the distribution of water for hire or
21 sale.

22 (~~(14)~~) (17) The meaning attributed, in chapter 82.04 RCW, to
23 the term "tax year," "person," "value proceeding or accruing,"
24 "business," "engaging in business," "in this state," "within this
25 state," "cash discount" and "successor" shall apply equally in the
26 provisions of this chapter.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16
28 RCW to read as follows:

29 (1) RCW 82.16.050 does not apply to amounts derived from the
30 transportation of either petroleum products or crude oil, or both,
31 which are not packaged for sale to ultimate consumers and such
32 products, crude oil, or both are transported wholly within this
33 state, between states, or between a state and a foreign country.

34 (2) For the purposes of this section, "state" means a state of
35 the United States, the District of Columbia, the Commonwealth of
36 Puerto Rico, and any territory or possession of the United States.

37 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.16
38 RCW to read as follows:

1 (1) Persons engaging both within and without this state in the
2 business of transporting petroleum products, crude oil, or both, must
3 apportion gross income as provided in this section.

4 (2) (a) Except as otherwise provided in this section, gross income
5 must be apportioned to this state based on the ratio that revenue
6 miles of the person in this state during the tax period bear to the
7 revenue miles of the person everywhere during the tax period.

8 (b) Gross income includes only the amount for transporting either
9 petroleum products or crude oil, or both, which are not packaged for
10 sale to ultimate consumers and does not include gross income derived
11 from transporting any other property or passengers.

12 (3) For persons that transport petroleum products or crude oil by
13 pipeline, gross income must be apportioned to this state based on the
14 ratio that the total number of traffic units in this state during the
15 tax period bear to the total number of traffic units everywhere
16 during the tax period.

17 (4) For purposes of this section, the following definitions
18 apply:

19 (a) "One unit" means one barrel, as defined in RCW 82.23B.010,
20 one gallon, one net ton, or other appropriate measure of product.

21 (b) "Revenue mile" means the transportation of one unit of
22 taxable petroleum product or crude oil for the distance of one mile.

23 (c) "Traffic unit" means the movement of one unit of taxable
24 petroleum product or crude oil for a distance of one mile.

25 NEW SECTION. **Sec. 4.** This act applies to amounts received on or
26 after October 1, 2023.

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