
ENGROSSED SUBSTITUTE SENATE BILL 5967

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senator Rinehart; by request of Governor Lowry)

Read first time 04/01/93.

1 AN ACT Relating to taxation; amending RCW 82.04.050, 82.04.190,
2 82.04.280, 82.04.4282, 82.04.460, 82.04.060, 82.08.020, 82.12.020,
3 82.04.480, 82.08.090, 82.12.0252, 82.12.0255, 82.12.0259, 82.12.035,
4 82.12.060, 82.08.100, 82.14.030, 82.14.045, 82.14.048, 81.104.170,
5 82.04.290, 82.60.050, 82.61.010, 82.61.020, 82.61.030, 82.61.040,
6 82.61.070, 82.62.040, 82.32.030, 70.95E.020, 82.45.010, 82.45.030,
7 82.45.032, 82.45.060, 82.45.090, 82.45.100, 82.45.150, 82.45.180,
8 43.84.092, 83.100.010, 83.100.020, 83.100.030, 83.100.040, 83.100.045,
9 83.100.050, 83.100.070, 83.100.080, 83.100.090, 83.100.130, 83.100.150,
10 82.03.190, 48.32A.090, 82.04.470, 82.08.050, and 67.40.090; reenacting
11 and amending RCW 82.12.010 and 82.14.340; adding new sections to
12 chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding
13 new sections to chapter 82.32 RCW; adding new sections to chapter 82.04
14 RCW; adding a new section to chapter 82.45 RCW; adding new sections to
15 chapter 83.100 RCW; adding a new section to chapter 48.14 RCW; creating
16 new sections; repealing RCW 82.04.300, 82.45A.010, 82.45A.020,
17 82.45A.030, 82.45.120, 83.100.160, 83.100.170, 83.100.180, 83.100.190,
18 48.32.050, and 82.04.417; repealing 1991 sp.s. c 22 s 1 (uncodified);
19 prescribing penalties; providing effective dates; and declaring an
20 emergency.

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

2 **PART I**

3 **RETAIL SALES TAXATION OF BUSINESS SERVICES**

4 **Sec. 101.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to
5 read as follows:

6 (1) "Sale at retail" or "retail sale" means every sale of tangible
7 personal property (including articles produced, fabricated, or
8 imprinted) to all persons irrespective of the nature of their business
9 and including, among others, without limiting the scope hereof, persons
10 who install, repair, clean, alter, improve, construct, or decorate real
11 or personal property of or for consumers other than a sale to a person
12 who presents a resale certificate as defined in RCW 82.04.470 and who:

13 (a) Purchases for the purpose of resale as tangible personal
14 property in the regular course of business without intervening use by
15 such person(())i or

16 (b) Installs, repairs, cleans, alters, imprints, improves,
17 constructs, or decorates real or personal property of or for consumers,
18 if such tangible personal property becomes an ingredient or component
19 of such real or personal property without intervening use by such
20 person(())i or

21 (c) Purchases for the purpose of consuming the property purchased
22 in producing for sale a new article of tangible personal property or
23 substance, of which such property becomes an ingredient or component or
24 is a chemical used in processing, when the primary purpose of such
25 chemical is to create a chemical reaction directly through contact with
26 an ingredient of a new article being produced for sale(())i or

27 (d) Purchases for the purpose of consuming the property purchased
28 in producing ferrosilicon which is subsequently used in producing
29 magnesium for sale, if the primary purpose of such property is to
30 create a chemical reaction directly through contact with an ingredient
31 of ferrosilicon(())i or

32 (e) Purchases for the purpose of providing the property to
33 consumers as part of competitive telephone service, as defined in RCW
34 82.04.065. The term shall include every sale of tangible personal
35 property which is used or consumed or to be used or consumed in the
36 performance of any activity classified as a "sale at retail" or "retail
37 sale" even though such property is resold or utilized as provided in

1 (a), (b), (c), (d), or (e) above following such use. The term also
2 means every sale of tangible personal property to persons engaged in
3 any business which is taxable under RCW 82.04.280, subsections (2) and
4 (7) and RCW 82.04.290.

5 (2) The term "sale at retail" or "retail sale" shall include the
6 sale of or charge made for tangible personal property consumed and/or
7 for labor and services rendered in respect to the following:

8 (a) The installing, repairing, cleaning, altering, imprinting, or
9 improving of tangible personal property of or for consumers, including
10 charges made for the mere use of facilities in respect thereto, but
11 ~~((excluding charges made for the use of coin operated laundry~~
12 ~~facilities when such facilities are situated in an apartment house,~~
13 ~~hotel, motel, rooming house, trailer camp or tourist camp for the~~
14 ~~exclusive use of the tenants thereof, and also excluding sales of~~
15 ~~laundry service to members by nonprofit associations composed~~
16 ~~exclusively of nonprofit hospitals, and))~~ excluding services rendered
17 in respect to live animals, birds and insects;

18 (b) The constructing, repairing, decorating, or improving of new or
19 existing buildings or other structures under, upon, or above real
20 property of or for consumers, including the installing or attaching of
21 any article of tangible personal property therein or thereto, whether
22 or not such personal property becomes a part of the realty by virtue of
23 installation, and shall also include the sale of services or charges
24 made for the clearing of land and the moving of earth excepting the
25 mere leveling of land used in commercial farming or agriculture;

26 (c) The charge for labor and services rendered in respect to
27 constructing, repairing, or improving any structure upon, above, or
28 under any real property owned by an owner who conveys the property by
29 title, possession, or any other means to the person performing such
30 construction, repair, or improvement for the purpose of performing such
31 construction, repair, or improvement and the property is then
32 reconveyed by title, possession, or any other means to the original
33 owner;

34 (d) The sale of or charge made for labor and services rendered in
35 respect to the cleaning, fumigating, razing or moving of existing
36 buildings or structures, but shall not include the charge made for
37 janitorial services; and for purposes of this section the term
38 "janitorial services" shall mean those cleaning and caretaking services
39 ordinarily performed by commercial janitor service businesses

1 including, but not limited to, wall and window washing, floor cleaning
2 and waxing, and the cleaning in place of rugs, drapes and upholstery.
3 The term "janitorial services" does not include painting, papering,
4 repairing, furnace or septic tank cleaning, snow removal or
5 sandblasting;

6 (e) The sale of or charge made for labor and services rendered in
7 respect to automobile towing and similar automotive transportation
8 services, but not in respect to those required to report and pay taxes
9 under chapter 82.16 RCW;

10 (f) The sale of and charge made for the furnishing of lodging and
11 all other services by a hotel, rooming house, tourist court, motel,
12 trailer camp, and the granting of any similar license to use real
13 property, as distinguished from the renting or leasing of real
14 property, and it shall be presumed that the occupancy of real property
15 for a continuous period of one month or more constitutes a rental or
16 lease of real property and not a mere license to use or enjoy the same;

17 (g) The sale of or charge made for tangible personal property,
18 labor and services to persons taxable under (a), (b), (c), (d), (e),
19 and (f) above when such sales or charges are for property, labor and
20 services which are used or consumed in whole or in part by such persons
21 in the performance of any activity defined as a "sale at retail" or
22 "retail sale" even though such property, labor and services may be
23 resold after such use or consumption. Nothing contained in this
24 paragraph shall be construed to modify the first paragraph of this
25 section and nothing contained in the first paragraph of this section
26 shall be construed to modify this paragraph.

27 (3) The term "sale at retail" or "retail sale" shall include the
28 sale of or charge made for personal business or professional services
29 ~~((including))~~ designated in this subsection as "retail services."
30 Retail services include amounts designated as interest, rents, fees,
31 admission, and other service emoluments however designated, received by
32 persons engaging in the following business activities, unless purchased
33 or licensed for the purpose of resale in the regular course of
34 business. The following shall be designated as retail services:

35 ~~((Amusement and recreation businesses including but not limited~~
36 ~~to golf, pool, billiards, skating, bowling, ski lifts and tows and~~
37 ~~others;~~

38 ~~((b))~~ Abstract, title insurance and escrow ((businesses)) services;

39 ~~((c))~~ (b) Credit bureau ((businesses)) services;

1 ~~((d) automobile parking and storage garage businesses.~~
2 ~~(4))~~ (c) Collection agencies or services;
3 (d) Stenographic, secretarial, and clerical services;
4 (e) Computer services, including but not limited to computer
5 programming, software modification, software installation, software
6 and/or hardware maintenance, and/or repair and software update
7 services;
8 (f) Data processing services, including but not limited to word
9 processing, data entry, data retrieval, data search, information
10 compilation, payroll and business accounting, data production, and
11 other computerized data and information storage or manipulation. Data
12 processing services also includes the use of a computer or computer
13 time for data processing whether the processing is performed by the
14 provider of the computer or by the purchaser or other beneficiary of
15 the service;
16 (g) Information services, including but not limited to electronic
17 data retrieval or research that entails furnishing financial or legal
18 information, data or research, general or specialized news, or current
19 information unless furnished to a newspaper or to a radio or television
20 station licensed by the federal communications commission;
21 (h) Legal services, arbitration and mediation services, including
22 but not limited to paralegal services, legal research services and
23 court reporting services, but not including charges for indigent
24 criminal defense or legal services for which no charge is made;
25 (i) Accounting, auditing, bookkeeping, tax preparation, and similar
26 services;
27 (j) Engineering, including but not limited to industrial, civil,
28 electrical, mechanical, petroleum, marine, nuclear, and design
29 engineering, as well as machine tool designing;
30 (k) Architectural services, including but not limited to structural
31 or landscape design or architecture;
32 (l) Business consulting services, including but not limited to
33 administrative management, business management, construction
34 management, motel management, office management, human resource
35 consulting, management engineering consulting, management information
36 systems consulting, manufacturing management consulting, marketing
37 consulting, operations research consulting, personnel management
38 consulting, physical distribution consultants, site location
39 consultants, and lobbying;

1 (m) Protective services, including but not limited to detective
2 agency services and private investigating services, armored car
3 services, guard or protective services, lie detection or polygraph
4 services, and security system, burglar, or fire alarm monitoring and
5 maintenance services;

6 (n) Public relations or advertising services, including but not
7 limited to layout, art direction, graphic design, copy writing,
8 mechanical preparation or production supervision, but not including any
9 amounts paid for actual broadcast or print advertising;

10 (o) The rental of heavy equipment with an operator;

11 (p) Boat, railroad, and air services such as sightseeing excursions
12 and tours;

13 (q) Surveying;

14 (r) Miscellaneous consulting services, including but not limited to
15 geological consulting, entomological consulting, and commercial testing
16 services;

17 (s) Financial management or consulting services, but not including
18 charges for trading in shares or consulting services performed for a
19 collective investment fund such as: (i) A mutual fund or other
20 regulated investment company as defined in section 851(a) of the
21 Internal Revenue Code of 1986, as amended; (ii) an "investment company"
22 as that term is used in section 3(a) of the Investment Company Act of
23 1940 as well as an entity that would be an investment company under
24 section 3(a) of the Investment Company Act of 1940 except for the
25 section 3(c)(1) or (11) exemptions, or except that it is a foreign
26 investment company organized under laws of a foreign country; (iii) an
27 "employee benefit plan," which includes any plan, trust, commingled
28 employee benefit trusts, or custodial arrangement that is subject to
29 the Employee Retirement Income Security Act of 1974, as amended, 29
30 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401,
31 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal
32 Revenue Code of 1986, as amended, or similar plan maintained by state
33 or local governments, or plans, trusts, or custodial arrangements
34 established to self-insure benefits required by federal, state, or
35 local law; (iv) a fund maintained by a nonprofit organization as
36 defined in section 501(c)(3) of the Internal Revenue Code of 1986, as
37 amended, for operating, quasi-endowment, or endowment purposes; or (v)
38 funds that are established for the benefit of such nonprofit

1 organization such as charitable remainder trusts, charitable lead
2 trusts, charitable annuity trusts, or other similar trusts; and

3 (t) Residential or commercial landscape maintenance and
4 horticultural services.

5 (4) The term "retail services" does not include:

6 (a) The provision of either permanent or temporary employees;

7 (b) Charges made between affiliated corporations for the sharing of
8 overhead expenses. "Affiliated corporations" means an affiliated
9 group of corporations as defined in section 1504(a) of the Internal
10 Revenue Code of 1986, as amended, whose members are includable under
11 section 1504(b), (c), or (d), and are eligible to file a consolidated
12 tax return for federal corporate income tax purposes, and includes
13 foreign affiliates that would otherwise be disqualified under section
14 1504(b)(4). "Overhead expenses" means costs for items such as taxes,
15 rents, insurance, and similar items, but does not include the provision
16 of actual services to an affiliate;

17 (c) Services provided by an employee to an employer while acting in
18 the capacity of an employee;

19 (d) Services donated to a public benefit nonprofit organization, as
20 defined in RCW 82.04.366;

21 (e) Services donated to the state of Washington, its political
22 subdivisions, municipal corporations, or quasi-municipal corporations;

23 (f) Services provided by a public benefit nonprofit organization,
24 as defined in RCW 82.04.366, to the state of Washington, its political
25 subdivisions, municipal corporations, or quasi-municipal corporations;

26 (g) Nonenterprise services provided by the state of Washington, its
27 political subdivisions, municipal corporations, or quasi-municipal
28 corporations, to the state of Washington, its political subdivisions,
29 municipal corporations, or quasi-municipal corporations;

30 (h) Services related to the cleanup of hazardous wastes from sites
31 designated as hazardous waste sites under federal or state law, whether
32 on land or water.

33 (5) The term "sale at retail" or "retail sale" shall include the
34 sale of or charge made for the following consumer services:

35 (a) Amusement and recreation services, including but not limited to
36 golf, pool, billiards, skating, bowling, ski lifts and tows, admissions
37 to sporting events and theatrical and cultural productions, carnival
38 and amusement park rides, and others;

39 (b) Automobile parking and storage garage businesses;

1 (c) Funeral services; and

2 (d) Miscellaneous personal services, including but not limited to
3 beauty and barber services, tanning salons, massage services, turkish
4 baths, escort and dating services, and health clubs or spa services,
5 but not including day-care services or babysitting services.

6 (6) The term shall also include the renting or leasing of tangible
7 personal property to consumers.

8 ~~((+5))~~ (7) The term shall also include the providing of telephone
9 service, as defined in RCW 82.04.065, to consumers.

10 ~~((+6))~~ (8) The term shall not include the sale of or charge made
11 for labor and services rendered in respect to the building, repairing,
12 or improving of any street, place, road, highway, easement, right of
13 way, mass public transportation terminal or parking facility, bridge,
14 tunnel, or trestle which is owned by a municipal corporation or
15 political subdivision of the state or by the United States and which is
16 used or to be used primarily for foot or vehicular traffic including
17 mass transportation vehicles of any kind. The term shall also not
18 include sales of feed, seed, seedlings, fertilizer, and spray materials
19 to persons who participate in the federal conservation reserve program
20 or its successor administered by the United States department of
21 agriculture, or to persons for the purpose of producing for sale any
22 agricultural product whatsoever, including plantation Christmas trees
23 and milk, eggs, wool, fur, meat, honey, or other substances obtained
24 from animals, birds, or insects but only when such production and
25 subsequent sale are exempt from tax under RCW 82.04.330, nor shall it
26 include sales of chemical sprays or washes to persons for the purpose
27 of post-harvest treatment of fruit for the prevention of scald, fungus,
28 mold, or decay.

29 ~~((+7))~~ (9) The term shall not include the sale of or charge made
30 for labor and services rendered in respect to the constructing,
31 repairing, decorating, or improving of new or existing buildings or
32 other structures under, upon, or above real property of or for the
33 United States, any instrumentality thereof, or a county or city housing
34 authority created pursuant to chapter 35.82 RCW, including the
35 installing, or attaching of any article of tangible personal property
36 therein or thereto, whether or not such personal property becomes a
37 part of the realty by virtue of installation. Nor shall the term
38 include the sale of services or charges made for the clearing of land

1 and the moving of earth of or for the United States, any
2 instrumentality thereof, or a county or city housing authority.

3 **Sec. 102.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to
4 read as follows:

5 "Consumer" means the following:

6 (1) Any person who purchases, acquires, owns, holds, or uses any
7 article of tangible personal property irrespective of the nature of the
8 person's business and including, among others, without limiting the
9 scope hereof, persons who install, repair, clean, alter, improve,
10 construct, or decorate real or personal property of or for consumers
11 other than for the purpose (a) of resale as tangible personal property
12 in the regular course of business or (b) of incorporating such property
13 as an ingredient or component of real or personal property when
14 installing, repairing, cleaning, altering, imprinting, improving,
15 constructing, or decorating such real or personal property of or for
16 consumers or (c) of consuming such property in producing for sale a new
17 article of tangible personal property or a new substance, of which such
18 property becomes an ingredient or component or as a chemical used in
19 processing, when the primary purpose of such chemical is to create a
20 chemical reaction directly through contact with an ingredient of a new
21 article being produced for sale or (d) purchases for the purpose of
22 consuming the property purchased in producing ferrosilicon which is
23 subsequently used in producing magnesium for sale, if the primary
24 purpose of such property is to create a chemical reaction directly
25 through contact with an ingredient of ferrosilicon;

26 (2) Any person who purchases, acquires, uses, or receives the
27 benefit of any service included within the definition of retail sale in
28 RCW 82.04.050, unless the person can demonstrate with regularly kept
29 books and records, or by other methods approved by rules of the
30 department, that the service was purchased or licensed for resale in
31 the regular course of business without intervening use by the person;

32 (3) Any person engaged in any business activity taxable under RCW
33 82.04.290 and any person who purchases, acquires, or uses any telephone
34 service as defined in RCW 82.04.065, other than for resale in the
35 regular course of business;

36 (~~(3)~~) (4) Any person engaged in the business of contracting for
37 the building, repairing or improving of any street, place, road,
38 highway, easement, right of way, mass public transportation terminal or

1 parking facility, bridge, tunnel, or trestle which is owned by a
2 municipal corporation or political subdivision of the state of
3 Washington or by the United States and which is used or to be used
4 primarily for foot or vehicular traffic including mass transportation
5 vehicles of any kind as defined in RCW 82.04.280, in respect to
6 tangible personal property or retail services, when such person
7 incorporates such property as an ingredient or component of such
8 publicly owned street, place, road, highway, easement, right of way,
9 mass public transportation terminal or parking facility, bridge,
10 tunnel, or trestle by installing, placing or spreading the property in
11 or upon the right of way of such street, place, road, highway,
12 easement, bridge, tunnel, or trestle or in or upon the site of such
13 mass public transportation terminal or parking facility;

14 ~~((+4))~~ (5) Any person who is an owner, lessee or has the right of
15 possession to or an easement in real property which is being
16 constructed, repaired, decorated, improved, or otherwise altered by a
17 person engaged in business, excluding only (a) municipal corporations
18 or political subdivisions of the state in respect to labor and services
19 rendered to their real property which is used or held for public road
20 purposes, and (b) the United States, instrumentalities thereof, and
21 county and city housing authorities created pursuant to chapter 35.82
22 RCW in respect to labor and services rendered to their real property.
23 Nothing contained in this or any other subsection of this definition
24 shall be construed to modify any other definition of "consumer";

25 ~~((+5))~~ (6) Any person who is an owner, lessee, or has the right of
26 possession to personal property which is being constructed, repaired,
27 improved, cleaned, imprinted, or otherwise altered by a person engaged
28 in business;

29 ~~((+6))~~ (7) Any person engaged in the business of constructing,
30 repairing, decorating, or improving new or existing buildings or other
31 structures under, upon, or above real property of or for the United
32 States, any instrumentality thereof, or a county or city housing
33 authority created pursuant to chapter 35.82 RCW, including the
34 installing or attaching of any article of tangible personal property
35 therein or thereto, whether or not such personal property becomes a
36 part of the realty by virtue of installation; also, any person engaged
37 in the business of clearing land and moving earth of or for the United
38 States, any instrumentality thereof, or a county or city housing
39 authority created pursuant to chapter 35.82 RCW. Any such person shall

1 be a consumer within the meaning of this subsection in respect to the
2 receipt of the benefit of any retail service or to tangible personal
3 property incorporated into, installed in, or attached to such building
4 or other structure by such person.

5 **Sec. 103.** RCW 82.04.280 and 1986 c 226 s 2 are each amended to
6 read as follows:

7 Upon every person engaging within this state in the business of:
8 (1) Printing, and of publishing newspapers, periodicals or magazines;
9 (2) building, repairing or improving any street, place, road, highway,
10 easement, right of way, mass public transportation terminal or parking
11 facility, bridge, tunnel, or trestle which is owned by a municipal
12 corporation or political subdivision of the state or by the United
13 States and which is used or to be used, primarily for foot or vehicular
14 traffic including mass transportation vehicles of any kind and
15 including any readjustment, reconstruction or relocation of the
16 facilities of any public, private or cooperatively owned utility or
17 railroad in the course of such building, repairing or improving, the
18 cost of which readjustment, reconstruction, or relocation, is the
19 responsibility of the public authority whose street, place, road,
20 highway, easement, right of way, mass public transportation terminal or
21 parking facility, bridge, tunnel, or trestle is being built, repaired
22 or improved; (3) extracting for hire or processing for hire; (4)
23 operating a cold storage warehouse or storage warehouse, but not
24 including the rental of cold storage lockers; (5) representing and
25 performing services for fire or casualty insurance companies as an
26 independent resident managing general agent licensed under the
27 provisions of RCW 48.05.310; (6) radio and television broadcasting,
28 excluding network, national and regional advertising computed as a
29 standard deduction based on the national average thereof as annually
30 reported by the Federal Communications Commission, or in lieu thereof
31 by itemization by the individual broadcasting station, and excluding
32 that portion of revenue represented by the out-of-state audience
33 computed as a ratio to the station's total audience as measured by the
34 100 micro-volt signal strength and delivery by wire, if any; (7)
35 engaging in activities which bring a person within the definition of
36 consumer contained in RCW 82.04.190(~~(+6), as now or hereafter amended~~)
37 (7); as to such persons, the amount of tax on such business shall be

1 equal to the gross income of the business multiplied by the rate of
2 forty-four one hundredths of one percent.

3 As used in this section, "cold storage warehouse" means a storage
4 warehouse used to store fresh and/or frozen perishable fruits or
5 vegetables, meat, seafood, dairy products, or fowl, or any combination
6 thereof, at a desired temperature to maintain the quality of the
7 product for orderly marketing.

8 As used in this section, "storage warehouse" means a building or
9 structure, or any part thereof, in which goods, wares, or merchandise
10 are received for storage for compensation, except field warehouses,
11 fruit warehouses, fruit packing plants, warehouses licensed under
12 chapter 22.09 RCW, public garages storing automobiles, railroad freight
13 sheds, docks and wharves, and "self-storage" or "mini storage"
14 facilities whereby customers have direct access to individual storage
15 areas by separate entrance.

16 **Sec. 104.** RCW 82.04.4282 and 1989 c 392 s 1 are each amended to
17 read as follows:

18 In computing tax there may be deducted from the measure of tax
19 amounts derived from (1) bona fide initiation fees, (2) dues, (3)
20 contributions, (4) donations, (5) tuition fees, (6) charges made by a
21 nonprofit trade or professional organization for attending or occupying
22 space at a trade show, convention, or educational seminar sponsored by
23 the nonprofit trade or professional organization, which trade show,
24 convention, or educational seminar is not open to the general public,
25 (7) charges made for operation of privately operated kindergartens, and
26 (8) endowment funds. This paragraph shall not be construed to exempt
27 any person, association, or society from tax liability upon selling
28 tangible personal property or services defined as retail sale or upon
29 providing facilities or services for which a special charge is made to
30 members or others. If dues are in exchange for any significant amount
31 of goods or services rendered by the recipient thereof to members
32 without any additional charge to the member, or if the dues are
33 graduated upon the amount of goods or services rendered, the value of
34 such goods or services shall not be considered as a deduction
35 hereunder.

36 **Sec. 105.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to
37 read as follows:

1 (1)(a) Any person rendering services taxable under RCW 82.04.290
2 and maintaining places of business both within and without this state
3 which contribute to the rendition of such services shall, for the
4 purpose of computing tax liability under RCW 82.04.290, apportion to
5 this state that portion of his gross income which is derived from
6 services rendered within this state. Where such apportionment cannot
7 be accurately made by separate accounting methods, the taxpayer shall
8 apportion to this state that proportion of his total income which the
9 cost of doing business within the state bears to the total cost of
10 doing business both within and without the state.

11 (~~(2)~~) (b) Notwithstanding the provision of subsection (1)(a) of
12 this section, persons doing business both within and without the state
13 who receive gross income from service charges, as defined in RCW
14 63.14.010 (relating to amounts charged for granting the right or
15 privilege to make deferred or installment payments) or who receive
16 gross income from engaging in business as financial institutions within
17 the scope of chapter 82.14A RCW (relating to city taxes on financial
18 institutions) shall apportion or allocate gross income taxable under
19 RCW 82.04.290 to this state pursuant to rules promulgated by the
20 department consistent with uniform rules for apportionment or
21 allocation developed by the states.

22 (~~(3)~~) (c) The department shall by rule provide a method or
23 methods of apportioning or allocating gross income derived from sales
24 of telephone services taxed under this chapter, if the gross proceeds
25 of sales subject to tax under this chapter do not fairly represent the
26 extent of the taxpayer's income attributable to this state. The rules
27 shall be, so far as feasible, consistent with the methods of
28 apportionment contained in this section and shall require the
29 consideration of those facts, circumstances, and apportionment factors
30 as will result in an equitable and constitutionally permissible
31 division of the services.

32 (2) For purposes of determining the business and occupation tax
33 liability of the seller of a retail service, the sale of a service is
34 made in this state when the benefit of the retail service is received
35 in this state. For purposes of determining where the benefit is
36 received, the following presumptions shall apply:

37 (a) If the service directly relates to real property, the benefit
38 of the service shall be presumed to be received where the real property
39 is located; or

1 (b) If the service directly relates to tangible personal property,
2 the benefit of the service shall be presumed to be received where the
3 property is listed on the tax rolls or has otherwise acquired a situs;
4 or

5 (c) If the service involves enhancing a buyer's ability to maintain
6 or establish a local market, the benefit of the service shall be
7 presumed to be received where the buyer's local market exists; or

8 (d) If the provisions of (a), (b), or (c) of this subsection are
9 not applicable, the benefit of the service shall be presumed to be
10 received in the state where the buyer resides or where the buyer is
11 exclusively doing business; or

12 (e) If (a), (b), (c), or (d) of this subsection are not applicable,
13 and the seller of the service is doing business both inside and outside
14 of this state, the service shall be presumed to be received in this
15 state to the extent that the seller is doing business in this state.
16 For purposes of determining the extent of the seller's business in this
17 state, the following apportionment formula shall be used:

18 (i) The gross income of the seller shall be apportioned by an
19 apportionment fraction composed of a sales factor representing fifty
20 percent of the fraction, a property factor representing twenty-five
21 percent of the fraction, and a payroll factor representing twenty-five
22 percent of the fraction. If the denominator for any one of the factors
23 is zero or is insignificant, the weighted percentage for the other
24 denominators shall be increased proportionately; if the denominator for
25 any two of the factors are zero or are insignificant, the weighted
26 percentage for the other denominator shall be one hundred percent;

27 (ii) The property factor is a fraction the numerator of which is
28 the average value of the seller's real and tangible personal property
29 owned or rented and used in this state during the taxable year or
30 period and the denominator of which is the average value of such
31 property owned or rented and used everywhere;

32 (A) Real and tangible personal property owned by the seller shall
33 be valued at original cost. Real and tangible personal property rented
34 by the taxpayer shall be valued at eight times the net annual rental
35 rate paid by the taxpayer less any annual rental rate received from
36 subrentals;

37 (B) The average value of real and tangible personal property shall
38 be determined by averaging the value at the beginning and the end of
39 the taxable year or period, unless the department determines that an

1 averaging of monthly values during the taxable year or period is
2 reasonably required to properly reflect the average value of the
3 taxpayer's real and tangible personal property;

4 (iii) The payroll factor is a fraction the numerator of which is
5 the total amount paid in this state during the taxable year or period
6 by the taxpayer for compensation and the denominator of which is the
7 total compensation paid everywhere during the taxable year or period;

8 (A) As used in this subsection, the term "compensation" means
9 wages, salaries, commissions, and any other form of remuneration paid
10 to employees for personal services;

11 (B) Compensation is paid in this state if:

12 (I) The employee's service is performed entirely within this state;
13 or

14 (II) The employee's service is performed both within and without
15 the state, but the service performed without the state is incidental to
16 the employee's service within the state; or

17 (III) Some of the employee's service is performed in the state and
18 the base of operations or the place from which the service is directed
19 or controlled is within this state, or the base of operations or the
20 place from which the service is directed or controlled is not in any
21 state in which some part of the service is performed and the employee's
22 residence is in any state;

23 (iv) The sales factor is a fraction the numerator of which is the
24 total sales of the taxpayer in this state during the taxable year or
25 period and the denominator of which is the total sales of the taxpayer
26 everywhere during the taxable year or period.

27 **Sec. 106.** RCW 82.04.060 and 1983 2nd ex.s. c 3 s 26 are each
28 amended to read as follows:

29 "Sale at wholesale" or "wholesale sale" means any sale of tangible
30 personal property(~~(, or any sale of telephone service as defined in RCW~~
31 ~~82.04.065, which)) that is not a sale at retail and means any sale of
32 or charge made for labor and services, including services defined as
33 retail sales, rendered for persons who are not consumers, ((in respect
34 to real or personal property,)) if such sale or charge is expressly
35 defined as a retail sale by RCW 82.04.050 when rendered to or for
36 consumers((: PROVIDED, That)). The term (("real or personal property"
37 as used in this section)) "sale at wholesale" or "wholesale sale" shall~~

1 not include any sale of or charge made for services in respect to any
2 natural products named in RCW 82.04.100.

3 **Sec. 107.** RCW 82.08.020 and 1992 c 194 s 9 are each amended to
4 read as follows:

5 (1) There is levied and there shall be collected a tax on each
6 retail sale in this state equal to six (~~and five-tenths~~) percent of
7 the selling price.

8 (2) There is levied and there shall be collected an additional tax
9 on each retail car rental, regardless of whether the vehicle is
10 licensed in this state, equal to five and nine-tenths percent of the
11 selling price. Ninety-one percent of the revenue collected under this
12 subsection shall be deposited and distributed in the same manner as
13 motor vehicle excise tax revenue collected under RCW 82.44.020(1).
14 Nine percent of the revenue collected under this subsection shall be
15 deposited in the transportation fund and distributed in the same manner
16 as motor vehicle excise tax revenue collected under RCW 82.44.020(2).

17 (3) The taxes imposed under this chapter shall apply to successive
18 retail sales of the same property.

19 (4) The rates provided in this section apply to taxes imposed under
20 chapter 82.12 RCW as provided in RCW 82.12.020.

21 NEW SECTION. **Sec. 108.** A new section is added to chapter 82.08
22 RCW to read as follows:

23 (1) A seller of a retail service shall collect the retail sales tax
24 on the sale of a retail service if the sale is made in this state. The
25 sale is made in this state for purposes of this chapter:

26 (a) If the service directly relates to real property, the benefit
27 of the service shall be presumed to be received where the real property
28 is located; or

29 (b) If the service directly relates to tangible personal property,
30 the benefit of the service shall be presumed to be received where the
31 property is listed on the tax rolls or has otherwise acquired a situs;
32 or

33 (c) If the service involves enhancing a buyer's ability to maintain
34 or establish a local market, the benefit of the service shall be
35 presumed to be received where the buyer's local market exists; or

36 (d) If the provisions of (a), (b), or (c) of this subsection are
37 not applicable, the benefit of the service shall be presumed to be

1 received in the state where the buyer resides or is exclusively doing
2 business.

3 (2) When none of the provisions of subsection (1) of this section
4 apply, and the buyer is doing business both inside and outside of this
5 state, the buyer may elect to pay deferred sales tax on the portion of
6 the retail service that will be taxable in Washington under the formula
7 provided by section 111 of this act. If the buyer makes this election,
8 it must provide the seller with a certificate stating that it has made
9 this election. The department shall adopt rules providing the form and
10 information required to be on the certificates.

11 (3) Notwithstanding the provisions of subsection (1) or (2) of this
12 section, if the buyer can demonstrate to the satisfaction of the
13 department that the benefit of the service was received outside of this
14 state, the service shall be deemed to have been received outside of
15 this state.

16 (4) If a transaction involves both the sale of a retail service
17 taxable under this chapter and the provision of a service not taxable
18 under this chapter, the charges shall be separately identified and
19 stated with respect to the taxable and nontaxable portions of the
20 transaction. Failure to separately state the charges shall create a
21 presumption that the entire transaction is subject to the retail sales
22 tax.

23 **Sec. 109.** RCW 82.12.010 and 1985 c 222 s 1 and 1985 c 132 s 1 are
24 each reenacted and amended to read as follows:

25 For the purposes of this chapter:

26 (1) "Value of the article used" shall mean the consideration,
27 whether money, credit, rights, or other property except trade-in
28 property of like kind, expressed in terms of money, paid or given or
29 contracted to be paid or given by the purchaser to the seller for the
30 article of tangible personal property, the use of which is taxable
31 under this chapter. The term includes, in addition to the
32 consideration paid or given or contracted to be paid or given, the
33 amount of any tariff or duty paid with respect to the importation of
34 the article used. In case the article used is acquired by lease or by
35 gift or is extracted, produced, or manufactured by the person using the
36 same or is sold under conditions wherein the purchase price does not
37 represent the true value thereof, the value of the article used shall
38 be determined as nearly as possible according to the retail selling

1 price at place of use of similar products of like quality and character
2 under such rules and regulations as the department of revenue may
3 prescribe.

4 In case the articles used are acquired by bailment, the value of
5 the use of the articles so used shall be in an amount representing a
6 reasonable rental for the use of the articles so bailed, determined as
7 nearly as possible according to the value of such use at the places of
8 use of similar products of like quality and character under such rules
9 and regulations as the department of revenue may prescribe: PROVIDED,
10 That in case any such articles of tangible personal property are used
11 in respect to the construction, repairing, decorating, or improving of,
12 and which become or are to become an ingredient or component of, new or
13 existing buildings or other structures under, upon, or above real
14 property of or for the United States, any instrumentality thereof, or
15 a county or city housing authority created pursuant to chapter 35.82
16 RCW, including the installing or attaching of any such articles therein
17 or thereto, whether or not such personal property becomes a part of the
18 realty by virtue of installation, then the value of the use of such
19 articles so used shall be determined according to the retail selling
20 price of such articles, or in the absence of such a selling price, as
21 nearly as possible according to the retail selling price at place of
22 use of similar products of like quality and character or, in the
23 absence of either of these selling price measures, such value may be
24 determined upon a cost basis, in any event under such rules and
25 regulations as the department of revenue may prescribe.

26 In the case of articles owned by a user engaged in business outside
27 the state which are brought into the state for no more than ninety days
28 in any period of three hundred sixty-five consecutive days and which
29 are temporarily used for business purposes by the person in this state,
30 the value of the article used shall be an amount representing a
31 reasonable rental for the use of the articles, unless the person has
32 paid tax under this chapter or chapter 82.08 RCW upon the full value of
33 the article used, as defined in the first paragraph of this subsection.

34 In the case of articles manufactured or produced by the user and
35 used in the manufacture or production of products sold or to be sold to
36 the department of defense of the United States, the value of the
37 articles used shall be determined according to the value of the
38 ingredients of such articles.

1 In the case of an article manufactured or produced for purposes of
2 serving as a prototype for the development of a new or improved
3 product, the value of the article used shall be determined by: (a) The
4 retail selling price of such new or improved product when first offered
5 for sale; or (b) the value of materials incorporated into the prototype
6 in cases in which the new or improved product is not offered for sale.

7 (2) "Value of the retail service used" shall mean the
8 consideration, whether money, credit, rights, or other property,
9 expressed in terms of money, paid or given or contracted to be paid or
10 given by the purchaser to the seller for the retail service, the use of
11 which is taxable under this chapter. If the retail service is received
12 by gift or under conditions wherein the purchase price does not
13 represent the true value of the retail service, the value of the retail
14 services used shall be determined as nearly as possible according to
15 the retail selling price at the place of use of similar services under
16 rules prescribed by the department of revenue;

17 (3) "Use," "used," "using," or "put to use" shall have their
18 ordinary meaning, and shall mean:

19 (a) With respect to tangible personal property, the first act
20 within this state by which the taxpayer takes or assumes dominion or
21 control over the article of tangible personal property (as a consumer),
22 and include installation, storage, withdrawal from storage, or any
23 other act preparatory to subsequent actual use or consumption within
24 this state; and

25 (b) With respect to a service defined as a retail sale, the receipt
26 in this state by the taxpayer of any part of the benefit afforded by
27 the retail service as defined in RCW 82.04.050;

28 ~~((+3))~~ (4) "Taxpayer" and "purchaser" include all persons included
29 within the meaning of the word "buyer" and the word "consumer" as
30 defined in chapters 82.04 and 82.08 RCW;

31 ~~((+4))~~ (5) "Retailer" means every seller as defined in RCW
32 82.08.010 and every person engaged in the business of selling tangible
33 personal property at retail and every person required to collect from
34 purchasers the tax imposed under this chapter;

35 ~~((+5))~~ (6) The meaning ascribed to words and phrases in chapters
36 82.04 and 82.08 RCW, insofar as applicable, shall have full force and
37 effect with respect to taxes imposed under the provisions of this
38 chapter. "Consumer," in addition to the meaning ascribed to it in
39 chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any

1 person who distributes or displays, or causes to be distributed or
2 displayed, any article of tangible personal property, except
3 newspapers, the primary purpose of which is to promote the sale of
4 products or services.

5 **Sec. 110.** RCW 82.12.020 and 1983 c 7 s 7 are each amended to read
6 as follows:

7 (1) There is hereby levied and there shall be collected from every
8 person in this state a tax or excise for the privilege of receiving the
9 benefit of any service defined as a retail sale or of using within this
10 state as a consumer any article of tangible personal property purchased
11 at retail, or acquired by lease, gift, repossession, or bailment, or
12 extracted or produced or manufactured by the person so using the same,
13 or otherwise furnished to a person engaged in any business taxable
14 under RCW 82.04.280, subsections (2) or (7). (~~This tax will not apply~~
15 ~~with respect to the use of any article of tangible personal property~~
16 ~~purchased, extracted, produced or manufactured outside this state until~~
17 ~~the transportation of such article has finally ended or until such~~
18 ~~article has become commingled with the general mass of property in this~~
19 ~~state.))~~)

20 (2) This tax shall apply to the receipt of any service defined as
21 a retail sale or the use of every article of tangible personal
22 property, including property acquired at a casual or isolated sale, and
23 including byproducts used by the manufacturer thereof, except as
24 hereinafter provided, irrespective of whether the article or similar
25 articles are manufactured or are available for purchase within this
26 state.

27 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
28 or user of tangible personal property or service defined as a retail
29 sale of the tax imposed by chapter 82.08 or 82.12 RCW shall not have
30 the effect of exempting any other purchaser or user of the same
31 property or service defined as a retail sale from the taxes imposed by
32 such chapters.

33 (4) The tax shall be levied and collected in an amount equal to the
34 value of the article or service used by the taxpayer multiplied by the
35 rate in effect for the retail sales tax under RCW 82.08.020(~~(, as now~~
36 ~~or hereafter amended, in the county in which the article is used))~~).

1 NEW SECTION. **Sec. 111.** A new section is added to chapter 82.12
2 RCW to read as follows:

3 The receipt of any part of the benefit of a retail service in this
4 state occurs:

5 (1) If the retail service directly relates to real property, the
6 benefit of the retail service shall be presumed to be received in this
7 state when the real property is located in this state; or

8 (2) If the retail service directly relates to tangible personal
9 property, the benefit of the retail service shall be presumed to be
10 received in this state when the tangible personal property is listed on
11 the property tax rolls or has otherwise acquired a situs in this state;
12 or

13 (3) If the retail service directly involves sales to a buyer's
14 local market, the benefit of the retail service shall be presumed to be
15 received in this state when the buyer's local market is in this state;
16 or

17 (4) If the provisions of subsection (1), (2), or (3) of this
18 section are not applicable, the benefit of the retail service shall be
19 presumed to be received in the state where the buyer resides or is
20 exclusively doing business; or

21 (5) If subsection (1), (2), (3), or (4) of this section are not
22 applicable, and the buyer of the retail service is doing business both
23 inside and outside of this state, the retail service shall be presumed
24 to be received in this state to the extent that the buyer is doing
25 business in this state. The amount of the retail service that is
26 taxable in this state shall be determined by multiplying the price of
27 the retail service by a percentage that represents the extent of the
28 buyer's business in this state. For purposes of determining the extent
29 of the buyer's business in this state, the following apportionment
30 formula shall be used:

31 (a) The value of the retail service shall be apportioned by an
32 apportionment fraction composed of a sales factor representing fifty
33 percent of the fraction, a property factor representing twenty-five
34 percent of the fraction, and a payroll factor representing twenty-five
35 percent of the fraction. If the denominator for any one of the factors
36 is zero or are insignificant, the weighted percentage for the other
37 denominators shall be increased proportionately; if the denominator for
38 any two of the factors are zero or are insignificant, the weighted
39 percentage for the other denominator shall be one hundred percent;

1 (b) The property factor is a fraction the numerator of which is the
2 average value of the buyer's real and tangible personal property owned
3 or rented and used in this state during the taxable year or period and
4 the denominator of which is the average value of such property owned or
5 rented and used everywhere;

6 (i) Real and tangible personal property owned by the seller shall
7 be valued at original cost. Real and tangible personal property rented
8 by the taxpayer shall be valued at eight times the net annual rental
9 rate paid by the taxpayer less any annual rental rate received from
10 subrentals;

11 (ii) The average value of real and tangible personal property shall
12 be determined by averaging the value at the beginning and the end of
13 the taxable year or period, unless the department determines that an
14 averaging of monthly values during the taxable year or period is
15 reasonably required to properly reflect the average value of the
16 taxpayer's real and tangible personal property;

17 (c) The payroll factor is a fraction the numerator of which is the
18 total amount paid in this state during the taxable year or period by
19 the taxpayer for compensation and the denominator of which is the total
20 compensation paid everywhere during the taxable year or period;

21 (i) As used in this subsection, the term "compensation" means
22 wages, salaries, commissions, and any other form of remuneration paid
23 to employees for personal services;

24 (ii) Compensation is paid in this state if:

25 (A) The employee's service is performed entirely within this state;
26 or

27 (B) The employee's service is performed both within and without the
28 state, but the service performed without the state is incidental to the
29 employee's service within the state; or

30 (C) Some of the employee's service is performed in the state and
31 the base of operations or the place from which the service is directed
32 or controlled is within this state, or the base of operations or the
33 place from which the service is directed or controlled is not in any
34 state in which some part of the service is performed and the employee's
35 residence is in any state;

36 (d) The sales factor is a fraction the numerator of which is the
37 total sales of the taxpayer in this state during the taxable year or
38 period and the denominator of which is the total sales of the taxpayer
39 everywhere during the taxable year; or

1 (6) Notwithstanding the provisions of subsection (1), (2), (3),
2 (4), or (5) of this section, if the buyer can demonstrate to the
3 satisfaction of the department that the benefit of the service was
4 received outside of this state, the service shall be deemed to have
5 been received outside of this state.

6 NEW SECTION. **Sec. 112.** A new section is added to chapter 82.32
7 RCW to read as follows:

8 If a retail service is initially taxable as of the effective date
9 of this section, and the retail service is received prior to that date,
10 it is not subject to tax under chapter 82.08, 82.12, or 82.14 RCW,
11 notwithstanding that compensation for the service is paid or payable on
12 or after that date. If the retail service is received on or after the
13 effective date of this section, the service shall be taxed unless it
14 was paid in full before April 1, 1993. If the retail service is
15 received over a period of time beginning prior to the effective date of
16 this section and ending after that date, and full payment for the
17 service has not been made before April 1, 1993, the service shall be
18 taxed only upon that portion of the service received on or after the
19 effective date of this section. If the retail service is performed
20 under a contract signed prior to the effective date of this section,
21 and such contract does not allow the seller to add the retail sales
22 taxes imposed under chapter 82.08, 82.12, or 82.14 RCW to the contract
23 price, the retail sales taxes imposed on retail services may not be
24 imposed on that contract.

25 **Sec. 113.** RCW 82.04.480 and 1975 1st ex.s. c 278 s 44 are each
26 amended to read as follows:

27 Every consignee, bailee, factor, or auctioneer having either actual
28 or constructive possession of tangible personal property, or having
29 possession of the documents of title thereto, with power to sell such
30 tangible personal property in his or its own name and actually so
31 selling, and every agent with power to sell services defined as retail
32 sales in the agent's own name and actually so selling, shall be deemed
33 the seller of such tangible personal property or services within the
34 meaning of this chapter; and further, the consignor, bailor, principal,
35 or owner shall be deemed a seller of such property or services to the
36 consignee, bailee, factor, (~~or~~) auctioneer, or agent.

1 The burden shall be upon the taxpayer in every case to establish
2 the fact that he or she is not engaged in the business of selling
3 tangible personal property or services but is acting merely as broker
4 or agent in promoting sales for a principal. Such claim will be
5 allowed only when the taxpayer's accounting records are kept in such
6 manner as the department of revenue shall by general regulation
7 provide.

8 **Sec. 114.** RCW 82.08.090 and 1975 1st ex.s. c 278 s 49 are each
9 amended to read as follows:

10 In the case of installment sales and leases of personal property or
11 services defined as retail sales, the department of revenue, by
12 regulation, may provide for the collection of taxes upon the
13 installments of the purchase price, or amount of rental, as of the time
14 the same fall due.

15 **Sec. 115.** RCW 82.12.0252 and 1980 c 37 s 52 are each amended to
16 read as follows:

17 The provisions of this chapter shall not apply in respect to the
18 use of any article of tangible personal property or service defined as
19 a retail sale purchased at retail or acquired by lease, gift or
20 bailment if the sale thereof to, or the use thereof by, the present
21 user or ((his)) the user's bailor or donor has already been subjected
22 to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid
23 by the present user or by his bailor or donor; or in respect to the use
24 of property acquired by bailment and such tax has once been paid based
25 on reasonable rental as determined by RCW 82.12.060 measured by the
26 value of the article or service at time of first use multiplied by the
27 tax rate imposed by chapter 82.08 or 82.12 RCW as of the time of first
28 use; or in respect to the use of any article of tangible personal
29 property acquired by bailment, if the property was acquired by a
30 previous bailee from the same bailor for use in the same general
31 activity and such original bailment was prior to June 9, 1961.

32 **Sec. 116.** RCW 82.12.0255 and 1980 c 37 s 55 are each amended to
33 read as follows:

34 The provisions of this chapter shall not apply in respect to the
35 use of any article of tangible personal property or any service defined
36 as a retail sale which the state is prohibited from taxing under the

1 Constitution of the state or under the Constitution or laws of the
2 United States.

3 **Sec. 117.** RCW 82.12.0259 and 1980 c 37 s 59 are each amended to
4 read as follows:

5 The provisions of this chapter shall not apply in respect to the
6 use of tangible personal property or services defined as retail sales
7 by corporations which have been incorporated under any act of the
8 congress of the United States and whose principal purposes are to
9 furnish volunteer aid to members of the armed forces of the United
10 States and also to carry on a system of national and international
11 relief and to apply the same in mitigating the sufferings caused by
12 pestilence, famine, fire, flood, and other national calamities and to
13 devise and carry on measures for preventing the same.

14 **Sec. 118.** RCW 82.12.035 and 1987 c 27 s 2 are each amended to read
15 as follows:

16 A credit shall be allowed against the taxes imposed by this chapter
17 upon the use of tangible personal property or services defined as
18 retail sales in the state of Washington in the amount that the present
19 user thereof or his or her bailor or donor has paid a retail sales or
20 use tax with respect to such property or service to any other state of
21 the United States, any political subdivision thereof, the District of
22 Columbia, and any foreign country or political subdivision thereof,
23 prior to the use of such property or service in Washington.

24 **Sec. 119.** RCW 82.12.060 and 1975 1st ex.s. c 278 s 54 are each
25 amended to read as follows:

26 (1) In the case of installment sales and leases of personal
27 property or services defined as retail sales, the department, by
28 regulation, may provide for the collection of taxes upon the
29 installments of the purchase price, or amount of rental, as of the time
30 the same fall due.

31 (2) In the case of property acquired by bailment, the department,
32 by regulation, may provide for payment of the tax due in installments
33 based on the reasonable rental for the property as determined under RCW
34 82.12.010(1).

1 **Sec. 120.** RCW 82.08.100 and 1982 1st ex.s. c 35 s 37 are each
2 amended to read as follows:

3 (1) The department of revenue, by general regulation, shall provide
4 that a taxpayer whose regular books of account are kept on a cash
5 receipts basis may file returns based upon his or her cash receipts for
6 each reporting period and pay the tax herein provided upon such basis
7 in lieu of reporting and paying the tax on all sales made during such
8 period. A taxpayer filing returns on a cash receipts basis is not
9 required to pay such tax on debts which are deductible as worthless for
10 federal income tax purposes. Absent regular books and records to
11 substantiate the accounting method chosen, returns shall be reported in
12 the same manner as reported for federal income tax purposes.

13 (2) The accounting method for taxes administered under this section
14 shall be uniform for all excise taxes unless a combined method is first
15 approved by the department.

16 (3) A taxpayer may convert its reporting method to a different
17 method that has prior approval by the department if the conversion
18 satisfies the requirement in the rules adopted by the department
19 pertaining to adjustments necessary to account for all income. The
20 department may not withhold its approval unless the taxpayer cannot,
21 for whatever reason, make the necessary adjustments to account for all
22 income. The department may permit adjustments that cause an increase
23 in the income to be amortized over a period not to exceed twelve
24 consecutive months.

25 **Sec. 121.** RCW 82.14.030 and 1989 c 384 s 6 are each amended to
26 read as follows:

27 (1) The governing body of any county or city while not required by
28 legislative mandate to do so, may, by resolution or ordinance for the
29 purposes authorized by this chapter, fix and impose a sales and use tax
30 in accordance with the terms of this chapter. Such tax shall be
31 collected from those persons who are taxable by the state pursuant to
32 chapters 82.08 and 82.12 RCW, upon the occurrence of any taxable event
33 within the county or city as the case may be(~~(:—PROVIDED, That)~~).
34 Except as provided in RCW 82.14.230, this sales and use tax shall not
35 apply to natural or manufactured gas. This sales and use tax shall not
36 apply to the sales of retail services as defined in RCW 82.04.050(3)(c)
37 through (3)(t), (5)(c), and (5)(d). The rate of such tax imposed by a
38 county shall be five-tenths of one percent of the selling price (in the

1 case of a sales tax) or value of the article used (in the case of a use
2 tax). The rate of such tax imposed by a city shall not exceed five-
3 tenths of one percent of the selling price (in the case of a sales tax)
4 or value of the article used (in the case of a use tax)((~~PROVIDED,~~
5 ~~HOWEVER, That~~)). In the event a county shall impose a sales and use
6 tax under this subsection, the rate of such tax imposed under this
7 subsection by any city therein shall not exceed four hundred and
8 twenty-five one-thousandths of one percent.

9 (2) Subject to the enactment into law of the 1982 amendment to RCW
10 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in
11 addition to the tax authorized in subsection (1) of this section, the
12 governing body of any county or city may by resolution or ordinance
13 impose an additional sales and use tax in accordance with the terms of
14 this chapter. Such additional tax shall be collected upon the same
15 taxable events upon which the tax imposed under subsection (1) of this
16 section is levied. The rate of such additional tax imposed by a county
17 shall be up to five-tenths of one percent of the selling price (in the
18 case of a sales tax) or value of the article used (in the case of a use
19 tax). The rate of such additional tax imposed by a city shall be up to
20 five-tenths of one percent of the selling price (in the case of a sales
21 tax) or value of the article used (in the case of a use tax)((~~PROVIDED~~
22 ~~HOWEVER, That~~)). In the event a county shall impose a sales
23 and use tax under this subsection at a rate equal to or greater than
24 the rate imposed under this subsection by a city within the county, the
25 county shall receive fifteen percent of the city tax((~~PROVIDED~~
26 FURTHER, That)). In the event that the county shall impose a sales and
27 use tax under this subsection at a rate which is less than the rate
28 imposed under this subsection by a city within the county, the county
29 shall receive that amount of revenues from the city tax equal to
30 fifteen percent of the rate of tax imposed by the county under this
31 subsection. The authority to impose a tax under this subsection is
32 intended in part to compensate local government for any losses from the
33 phase-out of the property tax on business inventories.

34 **Sec. 122.** RCW 82.14.045 and 1991 c 363 s 158 are each amended to
35 read as follows:

36 (1) The legislative body of any city pursuant to RCW 35.92.060, of
37 any county which has created an unincorporated transportation benefit
38 area pursuant to RCW 36.57.100 and 36.57.110, of any public

1 transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090,
2 of any county transportation authority established pursuant to chapter
3 36.57 RCW, and of any metropolitan municipal corporation within a
4 county with a population of one million or more pursuant to chapter
5 35.58 RCW, may, by resolution or ordinance for the sole purpose of
6 providing funds for the operation, maintenance, or capital needs of
7 public transportation systems and in lieu of the excise taxes
8 authorized by RCW 35.95.040, submit an authorizing proposition to the
9 voters or include such authorization in a proposition to perform the
10 function of public transportation and if approved by a majority of
11 persons voting thereon, fix and impose a sales and use tax in
12 accordance with the terms of this chapter: PROVIDED, That no such
13 legislative body shall impose such a sales and use tax without
14 submitting such an authorizing proposition to the voters and obtaining
15 the approval of a majority of persons voting thereon: PROVIDED
16 FURTHER, That where such a proposition is submitted by a county on
17 behalf of an unincorporated transportation benefit area, it shall be
18 voted upon by the voters residing within the boundaries of such
19 unincorporated transportation benefit area and, if approved, the sales
20 and use tax shall be imposed only within such area. Notwithstanding
21 any provisions of this section to the contrary, any county in which a
22 county public transportation plan has been adopted pursuant to RCW
23 36.57.070 and the voters of such county have authorized the imposition
24 of a sales and use tax pursuant to the provisions of section 10,
25 chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be
26 authorized to fix and impose a sales and use tax as provided in this
27 section at not to exceed the rate so authorized without additional
28 approval of the voters of such county as otherwise required by this
29 section.

30 The tax authorized pursuant to this section shall be in addition to
31 the tax authorized by RCW 82.14.030 and shall be collected from those
32 persons who are taxable by the state pursuant to chapters 82.08 and
33 82.12 RCW upon the occurrence of any taxable event within such city,
34 public transportation benefit area, county, or metropolitan municipal
35 corporation as the case may be, except that no tax on retail services,
36 as the term is defined in RCW 82.04.050(3)(c) through (3)(t), (5)(c),
37 and (5)(d), may be imposed under this section. The rate of such tax
38 shall be one-tenth, two-tenths, three-tenths, four-tenths, five-tenths,
39 or six-tenths of one percent of the selling price (in the case of a

1 sales tax) or value of the article used (in the case of a use tax).
2 The rate of such tax shall not exceed the rate authorized by the voters
3 unless such increase shall be similarly approved.

4 (2)(a) In the event a metropolitan municipal corporation shall
5 impose a sales and use tax pursuant to this chapter no city, county
6 which has created an unincorporated transportation benefit area, public
7 transportation benefit area authority, or county transportation
8 authority wholly within such metropolitan municipal corporation shall
9 be empowered to levy and/or collect taxes pursuant to RCW 35.58.273,
10 35.95.040, and/or 82.14.045, but nothing herein shall prevent such city
11 or county from imposing sales and use taxes pursuant to any other
12 authorization.

13 (b) In the event a county transportation authority shall impose a
14 sales and use tax pursuant to this section, no city, county which has
15 created an unincorporated transportation benefit area, public
16 transportation benefit area, or metropolitan municipal corporation,
17 located within the territory of the authority, shall be empowered to
18 levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or
19 82.14.045.

20 (c) In the event a public transportation benefit area shall impose
21 a sales and use tax pursuant to this section, no city, county which has
22 created an unincorporated transportation benefit area, or metropolitan
23 municipal corporation, located wholly or partly within the territory of
24 the public transportation benefit area, shall be empowered to levy or
25 collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

26 (3) Any local sales and use tax revenue collected pursuant to this
27 section by any city or by any county for transportation purposes
28 pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally
29 generated tax revenues for the purposes of apportionment and
30 distribution, in the manner prescribed by chapter 82.44 RCW, of the
31 proceeds of the motor vehicle excise tax authorized pursuant to RCW
32 35.58.273.

33 **Sec. 123.** RCW 82.14.048 and 1991 c 207 s 1 are each amended to
34 read as follows:

35 The governing board of a public facilities district under chapter
36 36.100 RCW may submit an authorizing proposition to the voters of the
37 district, and if the proposition is approved by a majority of persons

1 voting, fix and impose a sales and use tax in accordance with the terms
2 of this chapter.

3 The tax authorized in this section shall be in addition to any
4 other taxes authorized by law and shall be collected from those persons
5 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
6 the occurrence of any taxable event within the public facilities
7 district. This sales and use tax shall not apply to the sales of
8 retail services as defined in RCW 82.04.050(3)(c) through (3)(t),
9 (5)(c), and (5)(d). The rate of tax shall equal one-tenth of one
10 percent of the selling price in the case of a sales tax, or value of
11 the article used, in the case of a use tax.

12 Moneys received from any tax imposed under this section shall be
13 used for the purpose of providing funds for the costs associated with
14 the financing, design, acquisition, construction, equipping, operating,
15 maintaining, and reequipping of sports or entertainment facilities and
16 contiguous parking.

17 **Sec. 124.** RCW 82.14.340 and 1991 c 311 s 5 & 1991 c 301 s 16 are
18 each reenacted and amended to read as follows:

19 The legislative authority of any county with a population of two
20 hundred thousand or more, any county located east of the crest of the
21 Cascade mountains with a population of one hundred fifty thousand or
22 more, and any other county with a population of one hundred fifty
23 thousand or more that has had its population increase by at least
24 twenty-four percent during the preceding nine years, as certified by
25 the office of financial management for the first day of April of each
26 year, may and, if requested by resolution of the governing bodies of
27 cities in the county with an aggregate population equal to or greater
28 than fifty percent of the total population of the county, as last
29 determined by the office of financial management, shall submit an
30 authorizing proposition to the voters of the county and if approved by
31 a majority of persons voting, fix and impose a sales and use tax in
32 accordance with the terms of this chapter.

33 The tax authorized in this section shall be in addition to any
34 other taxes authorized by law and shall be collected from those persons
35 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW
36 upon the occurrence of any taxable event within such county. This
37 sales and use tax shall not apply to the sales of retail services as
38 defined in RCW 82.04.050(3)(c) through (3)(t), (5)(c), and (5)(d). The

1 rate of tax shall equal one-tenth of one percent of the selling price
2 (in the case of a sales tax) or value of the article used (in the case
3 of a use tax).

4 When distributing moneys collected under this section, the state
5 treasurer shall distribute ten percent of the moneys to the county in
6 which the tax was collected. The remainder of the moneys collected
7 under this section shall be distributed to the county and the cities
8 within the county ratably based on population as last determined by the
9 office of financial management. In making the distribution based on
10 population, the county shall receive that proportion that the
11 unincorporated population of the county bears to the total population
12 of the county and each city shall receive that proportion that the city
13 incorporated population bears to the total county population.

14 Moneys received from any tax imposed under this section shall be
15 expended exclusively for criminal justice purposes and shall not be
16 used to replace or supplant existing funding. Criminal justice
17 purposes are defined as activities that substantially assist the
18 criminal justice system, which may include circumstances where
19 ancillary benefit to the civil justice system occurs. Existing funding
20 for purposes of this subsection is defined as calendar year 1989 actual
21 operating expenditures for criminal justice purposes. Calendar year
22 1989 actual operating expenditures for criminal justice purposes
23 exclude the following: Expenditures for extraordinary events not
24 likely to reoccur, changes in contract provisions for criminal justice
25 services, beyond the control of the local jurisdiction receiving the
26 services, and major nonrecurring capital expenditures. Moneys received
27 by the county and the cities within the county from any tax imposed
28 under this section may be expended for domestic violence community
29 advocates, as defined in RCW 70.123.020, if, prior to July 28, 1991,
30 and prior to approval of the voters, the legislative authority of the
31 county, which submitted an authorizing proposition to the voters of the
32 county, adopted by ordinance a financial plan that included expenditure
33 of a portion of the moneys received for domestic violence community
34 advocates.

35 This section expires January 1, 1994.

36 **Sec. 125.** RCW 81.104.170 and 1992 c 101 s 28 are each amended to
37 read as follows:

1 Cities that operate transit systems, county transportation
2 authorities, metropolitan municipal corporations, public transportation
3 benefit areas, and regional transit authorities may submit an
4 authorizing proposition to the voters and if approved by a majority of
5 persons voting, fix and impose a sales and use tax in accordance with
6 the terms of this chapter, solely for the purpose of providing high
7 capacity transportation service.

8 The tax authorized pursuant to this section shall be in addition to
9 the tax authorized by RCW 82.14.030 and shall be collected from those
10 persons who are taxable by the state pursuant to chapters 82.08 and
11 82.12 RCW upon the occurrence of any taxable event within the taxing
12 district. This sales and use tax shall not apply to the sales of
13 retail services as defined in RCW 82.04.050(3)(c) through (3)(t),
14 (5)(c), and (5)(d). The maximum rate of such tax shall be approved by
15 the voters and shall not exceed one percent of the selling price (in
16 the case of a sales tax) or value of the article used (in the case of
17 a use tax). The maximum rate of such tax that may be imposed shall not
18 exceed nine-tenths of one percent in any county that imposes a tax
19 under RCW 82.14.340, or within a regional transit authority if any
20 county within the authority imposes a tax under RCW 82.14.340.

21 **Sec. 126.** RCW 82.04.290 and 1985 c 32 s 3 are each amended to read
22 as follows:

23 Upon every person engaging within this state in any business
24 activity other than or in addition to those enumerated in RCW
25 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and
26 82.04.280; as to such persons the amount of tax on account of such
27 activities shall be equal to the gross income of the business
28 multiplied by the rate of 1.50 percent on persons engaging in banking,
29 loan, security, or other financial businesses, from investments or the
30 use of moneys as such, and by the rate of 2.00 percent on all other
31 businesses. This section includes, among others, and without limiting
32 the scope hereof (whether or not title to materials used in the
33 performance of such business passes to another by accession, confusion
34 or other than by outright sale), persons engaged in the business of
35 rendering any type of service which does not constitute a "sale at
36 retail" or a "sale at wholesale." The value of advertising,
37 demonstration, and promotional supplies and materials furnished to an
38 agent by his principal or supplier to be used for informational,

1 educational and promotional purposes shall not be considered a part of
2 the agent's remuneration or commission and shall not be subject to
3 taxation under this section.

4 (End of part)

1 PART II

2 SALES TAX DEFERRAL PROGRAMS

3 Sec. 201. RCW 82.60.050 and 1988 c 41 s 5 are each amended to read
4 as follows:

5 RCW 82.60.030 (~~and 82.60.040~~) shall expire July 1, (~~1994~~) 1998.

6 Sec. 202. RCW 82.61.010 and 1988 c 41 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Applicant" means a person applying for a tax deferral under
11 this chapter.

12 (2) "Person" has the meaning given in RCW 82.04.030.

13 (3) "Department" means the department of revenue.

14 (4) "Eligible investment project" means:

15 (a) Construction of new buildings and the acquisition of new
16 related machinery and equipment when the buildings, machinery, and
17 equipment are to be used for either manufacturing or research and
18 development activities, which construction is commenced prior to
19 December 31, (~~1994~~) 1998; or

20 (b) Acquisition prior to December 31, (~~1994~~) 1998, of new
21 machinery and equipment to be used for either manufacturing or research
22 and development if the machinery and equipment is housed in a new
23 leased structure: PROVIDED, That the lessor/owner of the structure is
24 not eligible for a deferral unless the underlying ownership of the
25 buildings, machinery, and equipment vests exclusively in the same
26 person; or

27 (c) Acquisition of all new or used machinery, equipment, or other
28 personal property for use in the production or casting of aluminum at
29 an aluminum smelter or at facilities related to an aluminum smelter, if
30 the plant was in operation prior to 1975 and has ceased operations or
31 is in imminent danger of ceasing operations for economic reasons, as
32 determined by the department, and if the person applying for a deferral

33 (i) has consulted with any collective bargaining unit that represented
34 employees of the plant pursuant to a collective bargaining agreement
35 that was in effect either immediately prior to the time the plant

1 ceased operations or during the period when the plant was in imminent
2 danger of ceasing operations, on the proposed operation of the plant
3 and on the terms and conditions of employment for wage and salaried
4 employees and (ii) has obtained a written concurrence from the
5 bargaining unit on the decision to apply for a deferral under this
6 chapter; or

7 (d) Modernization projects involving construction, acquisition, or
8 upgrading of equipment or machinery, including services and labor,
9 which are commenced after May 19, 1987, and are intended to increase
10 the operating efficiency of existing plants which are either aluminum
11 smelters or aluminum rolling mills or of facilities related to such
12 plants, if the plant was in operation prior to 1975, and if the person
13 applying for a deferral (i) has consulted with any collective
14 bargaining unit that represents employees of the plant on the proposed
15 operation of the plant and the terms and conditions of employment for
16 wage and salaried employees and (ii) has obtained a written concurrence
17 from the bargaining unit on the decision to apply for a deferral under
18 this chapter; or

19 (e) Acquisition of all new or used machinery, equipment, or other
20 personal property for use in the production of pulp and paper-related
21 products if the plant was in operation prior to 1960 and is located in
22 a county with a population between forty thousand and seventy thousand
23 as last determined by the office of financial management; or

24 (f) Modernization projects involving construction, acquisition, or
25 upgrading of equipment or machinery, including services and labor,
26 which are commenced after the effective date of this act and are
27 intended to increase the operating efficiency of existing pulp and
28 paper mills or facilities, if the plant was in operation prior to 1960
29 and is located in a county with a population between forty thousand and
30 seventy thousand as last determined by the office of financial
31 management.

32 (5) "Manufacturing" means all activities of a commercial or
33 industrial nature wherein labor or skill is applied, by hand or
34 machinery, to materials so that as a result thereof a new, different,
35 or useful substance or article of tangible personal property is
36 produced for sale or commercial or industrial use and includes the
37 production or fabrication of specially made or custom-made articles.

1 (6) "Research and development" means the development, refinement,
2 testing, marketing, and commercialization of a product, service, or
3 process before commercial sales have begun.

4 (7) "Buildings" means only those new structures used for either
5 manufacturing or research and development activities, including plant
6 offices and warehouses or other facilities for the storage of raw
7 materials or finished goods if such facilities are an essential or an
8 integral part of a factory, mill, plant, or laboratory used for
9 manufacturing or research and development purposes. If a building is
10 used partly for manufacturing or research and development and partly
11 for other purposes, the applicable tax deferral shall be determined by
12 apportionment of the costs of construction under rules adopted by the
13 department.

14 (8) "Machinery and equipment" means all industrial and research
15 fixtures, equipment, and support facilities that are an integral and
16 necessary part of a manufacturing or research and development
17 operation. "Qualified machinery and equipment" includes computers;
18 software; data processing equipment; laboratory equipment;
19 manufacturing components such as belts, pulleys, shafts, and moving
20 parts; molds, tools, and dies; operating structures; and all equipment
21 used to control or operate the machinery. For purposes of this
22 chapter, new machinery and equipment means either new to the taxing
23 jurisdiction of the state or new to the certificate holder. Used
24 machinery and equipment may be treated as new equipment and machinery
25 if the certificate holder either brings the machinery and equipment
26 into Washington or makes a retail purchase of the machinery and
27 equipment in Washington or elsewhere.

28 (9) "Qualified employment position" means a permanent full-time
29 employee employed in the eligible investment project during the entire
30 tax year.

31 (10) "Recipient" means a person receiving a tax deferral under this
32 chapter.

33 (11) "Certificate holder" means an applicant to whom a tax deferral
34 certificate has been issued.

35 (12) "Operationally complete" means constructed or improved to the
36 point of being functionally useable for the intended purpose.

37 (13) "Initiation of construction" means that date upon which on-
38 site construction commences.

1 **Sec. 203.** RCW 82.61.020 and 1987 c 497 s 2 are each amended to
2 read as follows:

3 Application for deferral of taxes under this chapter shall be made
4 before initiation of the construction of the investment project or
5 acquisition of equipment or machinery or plant. Application for
6 deferral of taxes for modernization projects as defined in RCW
7 82.61.010(4)(d) and (f) shall be made during the calendar year in which
8 construction begins or acquisition of equipment or machinery occurs.
9 The application shall be made to the department in a form and manner
10 prescribed by the department. The application shall contain
11 information regarding the location of the investment project, estimated
12 or actual costs, time schedules for completion and operation, and other
13 information required by the department. The department shall rule on
14 the application within sixty days. A certificate holder shall initiate
15 construction of the investment project within one hundred eighty days
16 of receiving approval from the department and issuance of the tax
17 deferral certificate.

18 **Sec. 204.** RCW 82.61.030 and 1987 c 497 s 3 are each amended to
19 read as follows:

20 Except for eligible projects within the definitions in RCW
21 82.61.010(4) (c) (~~(or (d))~~) through (f), a tax deferral certificate
22 shall only be issued to persons who, on June 14, 1985, are not engaged
23 in manufacturing or research and development activities within this
24 state. For purposes of this section, a person shall not be considered
25 to be engaged in manufacturing or research and development activities
26 where the only activities performed by such person in this state are
27 sales, installation, repair, or promotional activities in respect to
28 products manufactured outside this state. Any person who has succeeded
29 by merger, consolidation, incorporation or any other form or change of
30 identity to the business of a person engaged in manufacturing or
31 research and development activities in this state on June 14, 1985, and
32 any person who is a subsidiary of a person engaged in manufacturing or
33 research and development activities in this state on June 14, 1985,
34 shall also be ineligible to receive a tax deferral certificate.

35 **Sec. 205.** RCW 82.61.040 and 1988 c 41 s 2 are each amended to read
36 as follows:

37 RCW 82.61.020 (~~(and 82.61.030)~~) shall expire July 1, (~~(1994)~~) 1998.

1 of the threshold amount multiplied by the number of months in the
2 reporting period.

3 (4) If a taxpayer engages in more than one business activity only
4 a single deduction using a single threshold amount applied against the
5 combined measures of tax is allowed under this section. The taxpayer
6 may specify how the deduction is to be divided among the measures of
7 tax.

8 **Sec. 302.** RCW 82.32.030 and 1992 c 206 s 8 are each amended to
9 read as follows:

10 (1) Except as provided in subsection (2) of this section, if any
11 person engages in any business or performs any act upon which a tax is
12 imposed by the preceding chapters, he or she shall, under such rules as
13 the department of revenue shall prescribe, apply for and obtain from
14 the department a registration certificate (~~((upon payment of fifteen
15 dollars))~~). Such registration certificate shall be personal and
16 nontransferable and shall be valid as long as the taxpayer continues in
17 business and pays the tax accrued to the state. In case business is
18 transacted at two or more separate places by one taxpayer, a separate
19 registration certificate for each place at which business is transacted
20 with the public shall be required(~~(, but, for such additional
21 certificates no additional payment shall be required)~~). Each
22 certificate shall be numbered and shall show the name, residence, and
23 place and character of business of the taxpayer and such other
24 information as the department of revenue deems necessary and shall be
25 posted in a conspicuous place at the place of business for which it is
26 issued. Where a place of business of the taxpayer is changed, the
27 taxpayer must return to the department the existing certificate, and a
28 new certificate will be issued for the new place of business (~~((free of
29 charge))~~). No person required to be registered under this section shall
30 engage in any business taxable hereunder without first being so
31 registered. The department, by rule, may provide for the issuance of
32 certificates of registration(~~(, without requiring payment,)~~) to
33 temporary places of business (~~((or to persons who are exempt from tax
34 under RCW 82.04.300))~~).

35 (2) Registration under this section is not required if the
36 following conditions are met:

37 (a) A person's value of products, gross proceeds of sales, or gross
38 income of the business (~~((is below the tax reporting threshold provided~~

1 in RCW 82.04.300)), from all business activities, is less than one
2 thousand dollars per month;

3 (b) The person is not required to collect or pay to the department
4 of revenue any other tax which the department is authorized to collect;
5 and

6 (c) The person is not otherwise required to obtain a license
7 subject to the master application procedure provided in chapter 19.02
8 RCW.

9 **Sec. 303.** RCW 70.95E.020 and 1990 c 114 s 12 are each amended to
10 read as follows:

11 A fee is imposed for the privilege of generating or potentially
12 generating hazardous waste in the state. The annual amount of the fee
13 shall be thirty-five dollars upon every known generator or potential
14 generator doing business in Washington in the current calendar year or
15 any part thereof. This fee shall be collected by the department of
16 revenue. A potential generator shall be exempt from the fee imposed
17 under this section if the ~~((potential generator is entitled to the~~
18 ~~exemption in RCW 82.04.300))~~ value of products, gross proceeds of
19 sales, or gross income of the business, from all business activities of
20 the potential generator, is less than twelve thousand dollars in the
21 current calendar year. The department shall, subject to appropriation,
22 use the funds collected from the fees assessed in this subsection to
23 support the activities of the office of waste reduction as specified in
24 RCW 70.95C.030. The fee imposed pursuant to this section shall be
25 first due on July 31, 1990, for any generator or potential generator
26 operating in Washington from March 21, 1990, to December 31, 1990, or
27 any part thereof.

28 NEW SECTION. **Sec. 304.** RCW 82.04.300 and 1992 c 206 s 7, 1983 c
29 3 s 213, 1979 ex.s. c 196 s 4, 1975 1st ex.s. c 278 s 41, 1961 c 293 s
30 3, & 1961 c 15 s 82.04.300 are each repealed.

31 (End of part)

1 acting in concert. In adopting a rule for this purpose, the department
2 shall consider the following:

3 (a) Persons shall be treated as acting in concert when they have a
4 relationship with each other such that one person influences or
5 controls the actions of another through common ownership; and

6 (b) When persons are not commonly owned or controlled, they shall
7 be treated as acting in concert only when the unity with which the
8 purchasers have negotiated and will consummate the transfer of
9 ownership interests supports a finding that they are acting as a single
10 entity. If the acquisitions are completely independent, with each
11 purchaser buying without regard to the identity of the other
12 purchasers, then the acquisitions shall be considered separate
13 acquisitions.

14 (3) The term "sale" shall not include:

15 (a) A transfer by gift((~~7~~)) to a family member or to a public
16 benefit nonprofit organization which is exempt from property tax by
17 chapter 84.36 RCW. For purposes of this section: "Family member"
18 means the transferor, the transferor's spouse, grandparents, parents,
19 children, grandchildren, or great-grandchildren; and a "public benefit
20 nonprofit organization" means an organization defined in RCW 82.04.366.

21 (b) A transfer by devise((~~7~~)) or inheritance((~~7~~)).

22 (c) A transfer of any leasehold interest other than of the type
23 mentioned above((~~7~~)).

24 (d) A cancellation or forfeiture of a vendee's interest in a
25 contract for the sale of real property, whether or not such contract
26 contains a forfeiture clause, or deed in lieu of foreclosure of a
27 mortgage ((~~or the assumption by a grantee of the balance owing on an~~
28 obligation which is secured by a mortgage or deed in lieu of forfeiture
29 of the vendee's interest in a contract of sale where no consideration
30 passes otherwise or)).

31 (e) The partition of property by tenants in common by agreement or
32 as the result of a court decree((~~7~~, ~~any transfer, conveyance, or)).~~

33 (f) The assignment of property or interest in property from one
34 spouse to the other in accordance with the terms of a decree of divorce
35 or in fulfillment of a property settlement agreement ((~~incident~~
36 thereto~~7~~)).

37 (g) The assignment or other transfer of a vendor's interest in a
38 contract for the sale of real property, even though accompanied by a
39 conveyance of the vendor's interest in the real property involved((~~7~~)).

1 (h) Transfers by appropriation or decree in condemnation
2 proceedings brought by the United States, the state or any political
3 subdivision thereof, or a municipal corporation(~~(7)~~).

4 (i) A mortgage or other transfer of an interest in real property
5 merely to secure a debt, or the assignment thereof(~~(7)~~).

6 (j) Any transfer or conveyance made pursuant to an order of sale by
7 the court in any mortgage or lien foreclosure proceeding or upon
8 execution of a judgment, or deed in lieu of foreclosure to satisfy a
9 mortgage(~~(7)~~).

10 (k) A conveyance to the federal housing administration or veterans
11 administration by an authorized mortgagee made pursuant to a contract
12 of insurance or guaranty with the federal housing administration or
13 veterans administration(~~(7-nor)~~).

14 (l) A transfer in compliance with the terms of any lease or
15 contract upon which the tax as imposed by this chapter has been paid or
16 where the lease or contract was entered into prior to the date this tax
17 was first imposed(~~(7-nor)~~).

18 (m) The sale of any grave or lot in an established cemetery(~~(7-~~
19 ~~nor)~~).

20 (n) A sale by (~~(or to)~~) the United States, this state or any
21 political subdivision thereof, or a municipal corporation of this
22 state.

23 (~~The term sale shall further not include~~) (o) A transfer of real
24 property, however effected, if it consists of a mere change in identity
25 or form of ownership of an entity where there is no change in the
26 beneficial ownership. These include transfers to a corporation or
27 partnership which is wholly owned by the transferor and/or the
28 transferor's spouse or children: PROVIDED, That if thereafter such
29 transferee corporation or partnership voluntarily transfers such real
30 property, or such transferor, spouse, or children voluntarily transfer
31 stock in the transferee corporation or interest in the transferee
32 partnership capital, as the case may be, to other than (1) the
33 transferor and/or the transferor's spouse or children, (2) a trust
34 having the transferor and/or the transferor's spouse or children as the
35 only beneficiaries at the time of the transfer to the trust, or (3) a
36 corporation or partnership wholly owned by the original transferor
37 and/or the transferor's spouse or children, within (~~(five)~~) three years
38 of the original transfer to which this exemption applies, and the tax
39 on the subsequent transfer has not been paid within sixty days of

1 becoming due, excise taxes shall become due and payable on the original
2 transfer as otherwise provided by law.

3 (4) The department shall adopt rules to implement this section and
4 the department shall be guided in the adoption of such rules defining
5 when a mere change in identity or form of ownership without a change in
6 beneficial ownership has occurred by the nonrecognition of gain
7 principles for entity formation, liquidation or dissolution, and
8 reorganization provided in the Internal Revenue Code of 1986, as
9 amended or renumbered.

10 **Sec. 403.** RCW 82.45.030 and 1969 ex.s. c 223 s 28A.45.030 are each
11 amended to read as follows:

12 (1) As used in this chapter, the term "selling price" means the
13 ((consideration,—including)) true and fair value of the property
14 conveyed. If property has been conveyed in an arm's length transaction
15 between unrelated persons for a valuable consideration, a rebuttable
16 presumption exists that the selling price is equal to the total
17 consideration paid or contracted to be paid to the transferor, or to
18 another for the transferor's benefit.

19 (2) If the sale is a transfer of a controlling interest in an
20 entity with an interest in real property located in this state, the
21 selling price shall be determined as follows:

22 (a) If the controlling interest is acquired in an arm's-length
23 transaction between unrelated persons for a valuable consideration, the
24 selling price equals the total consideration paid or contracted to be
25 paid to the transferor, or to another for the transferor's benefit,
26 multiplied by a fraction. The numerator of the fraction is the fair
27 market value of the real property owned by the entity and located in
28 Washington. The denominator of the fraction is the fair market value
29 of all of the assets of the entity, exclusive of goodwill.

30 (b) If the controlling interest is acquired in a transaction other
31 than as described in (a) of this subsection, the selling price equals
32 the true and fair value of the real property owned by the entity and
33 located in this state. If the true and fair value of the real property
34 located in this state cannot reasonably be determined, the selling
35 price shall be determined according to subsection (4) of this section.

36 (3) As used in this section, "total consideration paid or
37 contracted to be paid" includes money or anything of value, paid or
38 delivered or contracted to be paid or delivered in return for the

1 (~~transfer of the real property or estate or interest in real~~
2 ~~property~~) sale, and shall include the amount of any lien, mortgage,
3 contract indebtedness, or other incumbrance, either given to secure the
4 purchase price, or any part thereof, or remaining unpaid on such
5 property at the time of sale.

6 (~~The term~~) Total consideration shall not include the amount of
7 any outstanding lien or incumbrance in favor of the United States, the
8 state, or a municipal corporation for (~~the~~) taxes, special benefits,
9 or improvements.

10 (4) If the total consideration for the sale cannot be ascertained
11 or the true and fair value of the property to be valued at the time of
12 the sale cannot reasonably be determined, the market value assessment
13 for the property maintained on the county property tax rolls at the
14 time of the sale shall be used as the selling price.

15 **Sec. 404.** RCW 82.45.032 and 1986 c 211 s 1 are each amended to
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Real estate" or "real property" means (~~real property but~~
20 ~~includes~~) any interest, estate, or beneficial interest in land or
21 anything affixed to land, including the ownership interest or
22 beneficial interest in any entity which itself owns land or anything
23 affixed to land. The term includes used mobile homes (~~and~~), used
24 floating homes, and improvements constructed upon leased land.

25 (2) "Used mobile home" means a mobile home which has been
26 previously sold at retail and has been subjected to tax under chapter
27 82.08 RCW, or which has been previously used and has been subjected to
28 tax under chapter 82.12 RCW, and which has substantially lost its
29 identity as a mobile unit at the time of sale by virtue of its being
30 fixed in location upon land owned or leased by the owner of the mobile
31 home and placed on a foundation (posts or blocks) with fixed pipe
32 connections with sewer, water, and other utilities.

33 (3) "Mobile home" means a mobile home as defined by RCW 46.04.302,
34 as now or hereafter amended.

35 (4) "Used floating home" means a floating home in respect to which
36 tax has been paid under chapter 82.08 or 82.12 RCW.

37 (5) "Floating home" means a building on a float used in whole or in
38 part for human habitation as a single-family dwelling, which is not

1 designed for self propulsion by mechanical means or for propulsion by
2 means of wind, and which is on the property tax rolls of the county in
3 which it is located.

4 NEW SECTION. **Sec. 405.** A new section is added to chapter 82.45
5 RCW to read as follows:

6 As used in this chapter, the term "controlling interest" has the
7 following meaning:

8 (1) In the case of a corporation, either fifty percent or more of
9 the total combined voting power of all classes of stock of the
10 corporation entitled to vote, or fifty percent of the capital, profits,
11 or beneficial interest in the voting stock of the corporation; and

12 (2) In the case of a partnership, association, trust, or other
13 entity, fifty percent or more of the capital, profits, or beneficial
14 interest in such partnership, association, trust, or other entity.

15 **Sec. 406.** RCW 82.45.060 and 1987 c 472 s 14 are each amended to
16 read as follows:

17 ~~((1))~~ There is imposed an excise tax upon each sale of real
18 property at the rate of one and twenty-eight one-hundredths percent on
19 that portion of the selling price that is less than or equal to five
20 hundred thousand dollars and one and forty-eight one-hundredths percent
21 on that portion of the selling price that is over this amount. An
22 amount equal to seven and seven-tenths percent of the proceeds of this
23 tax remitted to the state treasurer shall be deposited in the public
24 works assistance account created in RCW 43.155.050.

25 ~~((2) There is imposed an additional excise tax through June 30,~~
26 ~~1989, upon each sale of real property at the rate of six one-hundredths~~
27 ~~of one percent of the selling price. The tax imposed under this~~
28 ~~subsection shall be deposited in the conservation area account under~~
29 ~~RCW 79.71.110.))~~

30 **Sec. 407.** RCW 82.45.090 and 1991 c 327 s 6 are each amended to
31 read as follows:

32 (1) Except for a sale of a beneficial interest in real property
33 where no instrument evidencing the sale is recorded in the official
34 real property records of the county in which the property is located,
35 the tax imposed by this chapter shall be paid to and collected by the
36 treasurer of the county within which is located the real property which

1 was sold(~~(, said)~~). In collecting the tax the treasurer ((acting))
2 shall act as agent for the state. The county treasurer shall cause a
3 stamp evidencing satisfaction of the lien to be affixed to the
4 instrument of sale or conveyance prior to its recording or to the real
5 estate excise tax affidavit in the case of used mobile home sales and
6 used floating home sales. A receipt issued by the county treasurer for
7 the payment of the tax imposed under this chapter shall be evidence of
8 the satisfaction of the lien imposed hereunder and may be recorded in
9 the manner prescribed for recording satisfactions of mortgages. No
10 instrument of sale or conveyance evidencing a sale subject to the tax
11 shall be accepted by the county auditor for filing or recording until
12 the tax shall have been paid and the stamp affixed thereto; in case the
13 tax is not due on the transfer, the instrument shall not be so accepted
14 until suitable notation of such fact has been made on the instrument by
15 the treasurer.

16 (2) For a sale of a beneficial interest in real property where no
17 instrument is recorded in the official real property records of the
18 county in which the property is located, the sale shall be reported to
19 the department of revenue within five days from the date of the sale on
20 such returns or forms and according to such procedures as the
21 department may prescribe. Such forms or returns shall be signed by
22 both the transferor and the transferee and shall be accompanied by
23 payment of any tax due. Any person who intentionally makes a false
24 statement on any return or form required to be filed with the
25 department under this chapter shall be guilty of perjury.

26 **Sec. 408.** RCW 82.45.100 and 1988 c 286 s 5 are each amended to
27 read as follows:

28 (1) The tax imposed under this chapter is due and payable
29 immediately at the time of sale, and if not paid within thirty days
30 thereafter shall bear interest at the rate of one percent per month
31 from the time of sale until the date of payment.

32 (2) In addition to the interest described in subsection (1) of this
33 section, if the payment of any tax is not received by the county
34 treasurer or the department of revenue, as the case may be, within
35 thirty days of the date due, there shall be assessed a penalty of five
36 percent of the amount of the tax; if the tax is not received within
37 sixty days of the date due, there shall be assessed a total penalty of
38 ten percent of the amount of the tax; and if the tax is not received

1 within ninety days of the date due, there shall be assessed a total
2 penalty of twenty percent of the amount of the tax. The payment of the
3 penalty described in this subsection shall be collectible from the
4 seller only, and RCW 82.45.070 does not apply to the penalties
5 described in this subsection.

6 (3) If the tax imposed under this chapter is not received by the
7 due date, the transferee shall be personally liable for the tax, along
8 with any interest as provided in subsection (1) of this section,
9 unless:

10 (a) An instrument evidencing the sale is recorded in the official
11 real property records of the county in which the property conveyed is
12 located; or

13 (b) Either the transferor or transferee notifies the department of
14 revenue in writing of the occurrence of the sale within thirty days
15 following the date of the sale.

16 (4) If upon examination of any affidavits or from other information
17 obtained by the department or its agents it appears that all or a
18 portion of the tax is unpaid, the department shall assess against the
19 taxpayer the additional amount found to be due plus interest and
20 penalties as provided in subsections (1) and (2) of this section. If
21 the department finds that all or any part of the deficiency resulted
22 from an intent to evade the tax payable under this chapter, an
23 additional penalty of fifty percent of the additional tax found to be
24 due shall be added.

25 ~~((4))~~ (5) No assessment or refund may be made by the department
26 more than four years after the date of sale except upon a showing of:

27 (a) Fraud or ((of)) misrepresentation of a material fact by the
28 taxpayer ((or));

29 (b) A failure by the taxpayer to record documentation of a sale or
30 otherwise report the sale to the county treasurer; or

31 (c) A failure of the transferor or transferee to report the sale
32 under RCW 82.45.090(2).

33 ~~((5))~~ (6) Penalties collected pursuant to subsection (2) of this
34 section shall be deposited in the housing trust fund as described in
35 chapter 43.185 RCW.

36 NEW SECTION. Sec. 409. Any ordinance imposing a tax under chapter
37 82.46 RCW which is in effect on the effective date of this section
38 shall apply to all sales taxable under chapter 82.45 RCW on the

1 effective date of this section at the rate specified in the ordinance,
2 until such time as the ordinance is otherwise amended or repealed.

3 **Sec. 410.** RCW 82.45.150 and 1981 c 167 s 1 are each amended to
4 read as follows:

5 All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.040,
6 82.32.050, 82.32.140, and 82.32.270 and except for the penalties and
7 the limitations thereon imposed by RCW 82.32.090, applies to the tax
8 imposed by this chapter, in addition to any other provisions of law for
9 the payment and enforcement of the tax imposed by this chapter. The
10 department of revenue shall by rule provide for the effective
11 administration of this chapter. The rules shall ~~((also include a~~
12 ~~manual which defines transactions which are taxable under))~~ prescribe
13 and furnish a real estate excise tax affidavit form verified by both
14 the seller and the buyer, or agents of each, to be used by each county,
15 or the department, as the case may be, in the collection of the tax
16 imposed by this chapter. The department of revenue shall annually
17 conduct audits of transactions and affidavits filed under this chapter.

18 **Sec. 411.** RCW 82.45.180 and 1991 c 245 s 15 are each amended to
19 read as follows:

20 (1) For taxes collected by the county under this chapter, the
21 county treasurer shall collect a two-dollar fee on all transactions
22 required by this chapter where the transaction does not require the
23 payment of tax. The county treasurer shall place one percent of the
24 proceeds of the tax imposed by this chapter and the treasurer's fee in
25 the county current expense fund to defray costs of collection and shall
26 pay over to the state treasurer and account to the department of
27 revenue for the remainder of the proceeds at the same time the county
28 treasurer remits funds to the state under RCW 84.56.280. ((The
29 proceeds of the tax on any sale occurring prior to September 1, 1981,
30 when the proceeds have not been certified by an educational service
31 district superintendent for school districts prior to September 1,
32 1981, shall be included in the amount remitted to the state
33 treasurer.)) The state treasurer shall deposit the proceeds in the
34 general fund for the support of the common schools.

35 (2) For taxes collected by the department of revenue under this
36 chapter, the department shall remit the tax to the state treasurer who
37 shall deposit the proceeds of any state tax in the general fund for the

1 support of the common schools. The state treasurer shall deposit the
2 proceeds of any local taxes imposed under chapter 82.46 RCW in the
3 local real estate excise tax account hereby created in the state
4 treasury. Moneys in the local real estate excise tax account may be
5 spent only for distribution to counties, cities, and towns imposing a
6 tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all
7 earnings of investments of balances in the local real estate excise tax
8 account shall be credited to the local real estate excise tax account
9 and distributed to the counties, cities, and towns monthly. Monthly
10 the state treasurer shall make distribution from the local real estate
11 excise tax account to the counties, cities, and towns the amount of tax
12 collected on behalf of each taxing authority. The state treasurer
13 shall make the distribution under this subsection without
14 appropriation.

15 **Sec. 412.** RCW 43.84.092 and 1993 c 4 s 9 are each amended to read
16 as follows:

17 (1) All earnings of investments of surplus balances in the state
18 treasury shall be deposited to the treasury income account, which
19 account is hereby established in the state treasury.

20 (2) Monthly, the state treasurer shall distribute the earnings
21 credited to the treasury income account. The state treasurer shall
22 credit the general fund with all the earnings credited to the treasury
23 income account except:

24 (a) The following accounts and funds shall receive their
25 proportionate share of earnings based upon each account's and fund's
26 average daily balance for the period: The capitol building
27 construction account, the Cedar River channel construction and
28 operation account, the Central Washington University capital projects
29 account, the charitable, educational, penal and reformatory
30 institutions account, the common school construction fund, the county
31 criminal justice assistance account, the county sales and use tax
32 equalization account, the data processing building construction
33 account, the deferred compensation administrative account, the deferred
34 compensation principal account, the department of retirement systems
35 expense account, the Eastern Washington University capital projects
36 account, the federal forest revolving account, the industrial insurance
37 premium refund account, the judges' retirement account, the judicial
38 retirement administrative account, the judicial retirement principal

1 account, the local leasehold excise tax account, the local real estate
2 excise tax account, the local sales and use tax account, the medical
3 aid account, the municipal criminal justice assistance account, the
4 municipal sales and use tax equalization account, the natural resources
5 deposit account, the perpetual surveillance and maintenance account,
6 the public employees' retirement system plan I account, the public
7 employees' retirement system plan II account, the Puyallup tribal
8 settlement account, the resource management cost account, the site
9 closure account, the special wildlife account, the state employees'
10 insurance account, the state employees' insurance reserve account, the
11 state investment board expense account, the state investment board
12 commingled trust fund accounts, the supplemental pension account, the
13 teachers' retirement system plan I account, the teachers' retirement
14 system plan II account, the University of Washington bond retirement
15 fund, the University of Washington building account, the volunteer fire
16 fighters' relief and pension principal account, the volunteer fire
17 fighters' relief and pension administrative account, the Washington
18 judicial retirement system account, the Washington law enforcement
19 officers' and fire fighters' system plan I retirement account, the
20 Washington law enforcement officers' and fire fighters' system plan II
21 retirement account, the Washington state patrol retirement account, the
22 Washington State University building account, the Washington State
23 University bond retirement fund, and the Western Washington University
24 capital projects account. Earnings derived from investing balances of
25 the agricultural permanent fund, the normal school permanent fund, the
26 permanent common school fund, the scientific permanent fund, and the
27 state university permanent fund shall be allocated to their respective
28 beneficiary accounts. All earnings to be distributed under this
29 subsection (2)(a) shall first be reduced by the allocation to the state
30 treasurer's service fund pursuant to RCW 43.08.190.

31 (b) The following accounts and funds shall receive eighty percent
32 of their proportionate share of earnings based upon each account's or
33 fund's average daily balance for the period: The central Puget Sound
34 public transportation account, the city hardship assistance account,
35 the county arterial preservation account, the economic development
36 account, the essential rail assistance account, the essential rail
37 banking account, the ferry bond retirement fund, the grade crossing
38 protective fund, the high capacity transportation account, the highway
39 bond retirement fund, the highway construction stabilization account,

1 the highway safety account, the marine operating fund, the motor
2 vehicle fund, the motorcycle safety education account, the pilotage
3 account, the public transportation systems account, the Puget Sound
4 capital construction account, the Puget Sound ferry operations account,
5 the recreational vehicle account, the rural arterial trust account, the
6 special category C account, the state patrol highway account, the
7 transfer relief account, the transportation capital facilities account,
8 the transportation equipment fund, the transportation fund, the
9 transportation improvement account, and the urban arterial trust
10 account.

11 (3) In conformance with Article II, section 37 of the state
12 Constitution, no treasury accounts or funds shall be allocated earnings
13 without the specific affirmative directive of this section.

14 NEW SECTION. **Sec. 413.** The following acts or parts of acts are
15 each repealed:

- 16 (1) 1991 sp.s. c 22 s 1 (uncodified);
17 (2) RCW 82.45A.010 and 1991 sp.s. c 22 s 2;
18 (3) RCW 82.45A.020 and 1991 sp.s. c 22 s 3;
19 (4) RCW 82.45A.030 and 1991 sp.s. c 22 s 4; and
20 (5) RCW 82.45.120 and 1981 c 167 s 5, 1980 c 134 s 1, & 1969 ex.s.
21 c 223 s 28A.45.120.

22 NEW SECTION. **Sec. 414.** The repeals in section 413 of this act
23 shall not be construed as affecting any existing right acquired or
24 liability or obligation incurred under the sections repealed or under
25 any rule or order adopted under those sections, nor as affecting any
26 proceeding instituted under those sections.

27 (End of part)

1 (7) "Internal Revenue Code" means the United States Internal
2 Revenue Code of 1986, as amended or renumbered;

3 (8) "Nonresident" means a decedent who was domiciled outside
4 Washington at his or her death;

5 (9) "Person" means any individual, estate, trust, receiver,
6 cooperative association, club, corporation, company, firm, partnership,
7 joint venture, syndicate, or other entity and, to the extent permitted
8 by law, any federal, state, or other governmental unit or subdivision
9 or agency, department, or instrumentality thereof;

10 (10) "Person required to file the federal return" and "taxpayer"
11 means any person required to file a return required by chapter 11 or 13
12 of the Internal Revenue Code (~~(of 1986, as amended or renumbered)~~),
13 such as the personal representative of an estate; or a transferor,
14 trustee, or beneficiary of a generation-skipping transfer; or a
15 qualified heir with respect to qualified real property, as defined and
16 used in section 2032A(c) of the (~~United States~~) Internal Revenue Code
17 (~~(of 1986, as amended or renumbered)~~);

18 (11) "Property" means (a) for a transfer, property included in the
19 gross estate; and (b) for a generation-skipping transfer, all real and
20 personal property subject to the federal tax;

21 (12) "Resident" means a decedent who was domiciled in Washington at
22 time of death;

23 (13) "Transfer" means "transfer" as used in section 2001 of the
24 (~~United States~~) Internal Revenue Code (~~(of 1986, as amended or~~
25 ~~renumbered,~~) or a disposition or cessation of qualified use as defined
26 and used in section 2032A(c) of the (~~United States~~) Internal Revenue
27 Code (~~(of 1986, as amended or renumbered; and)~~);

28 (14) "Trust" means "trust" under Washington law and any arrangement
29 described in section 2652 of the Internal Revenue Code (~~(of 1986, as~~
30 ~~amended or renumbered.)~~);

31 (15) "Washington estate and transfer tax" means: (a) For a
32 transfer, the maximum amount of tax provided in section 506(1) of this
33 act; and (b) for a generation-skipping transfer, the maximum amount of
34 tax provided in section 506(2) of this act; and

35 (~~(15)~~) (16) References in this chapter to the United States
36 Internal Revenue Code of 1986, to a section or chapter of the code, and
37 to regulations under the code are to the code, sections, chapters, and
38 regulations in effect on (~~June 7, 1990~~) the effective date of this
39 section.

1 **Sec. 503.** RCW 83.100.030 and 1988 c 64 s 3 are each amended to
2 read as follows:

3 (1) A tax in an amount equal to the (~~federal credit~~) Washington
4 estate and transfer tax is imposed on every transfer of property of a
5 resident.

6 (2) If the transfer is subject to a similar tax imposed by another
7 state (~~for which the federal credit is allowed~~), and if the tax
8 imposed by the other state is not qualified by a reciprocal provision
9 allowing the transfer to be taxed only in this state, the amount of the
10 tax due under this section shall be credited with the lesser of:

11 (a) The amount of the death tax paid the other state (~~and credited~~
12 ~~against the federal tax~~); or

13 (b) An amount computed by multiplying the (~~federal credit~~)
14 Washington estate and transfer tax by a fraction, the numerator of
15 which is the value of the property subject to the tax imposed by the
16 other state, and the denominator of which is the value of the
17 decedent's gross estate.

18 **Sec. 504.** RCW 83.100.040 and 1988 c 64 s 4 are each amended to
19 read as follows:

20 (1) A tax in an amount computed as provided in this section is
21 imposed on every transfer of property located in Washington of every
22 nonresident.

23 (2) The tax shall be computed by multiplying the (~~federal credit~~)
24 Washington estate and transfer tax by a fraction, the numerator of
25 which is the value of the property located in Washington, and the
26 denominator of which is the value of the decedent's gross estate.

27 (3) The transfer of the property of a nonresident is exempt from
28 the tax imposed by this section to the extent that the property of
29 residents is exempt from taxation under the laws of the state in which
30 the nonresident is domiciled.

31 **Sec. 505.** RCW 83.100.045 and 1988 c 64 s 5 are each amended to
32 read as follows:

33 (1) A tax in an amount equal to the (~~federal credit~~) Washington
34 estate and transfer tax is imposed on every generation-skipping
35 transfer, if real or tangible personal property subject to the federal
36 tax is located in this state or if the trust has its principal place of

1 administration in this state at the time of the generation-skipping
2 transfer.

3 (2) If the generation-skipping transfer is subject to a similar tax
4 imposed by another state (~~for which the federal credit is allowed~~),
5 the amount of the tax due under this section shall be credited with the
6 lesser of:

7 (a) The amount of the tax paid to the other state (~~and credited~~
8 ~~against the federal tax~~); or

9 (b) An amount computed by multiplying the (~~federal credit~~)
10 Washington estate and transfer tax by a fraction, the numerator of
11 which is the value of the property subject to the generation-skipping
12 transfer tax imposed by the other state, and the denominator of which
13 is the value of all property subject to the federal tax.

14 NEW SECTION. Sec. 506. A new section is added to chapter 83.100
15 RCW to read as follows:

16 (1) The Washington estate and transfer tax for an estate shall be
17 the tax determined under subsection (3) of this section based on the
18 amount upon which the tentative tax for federal estate tax purposes is
19 computed under section 2001(b) of the Internal Revenue Code. However:

20 (a) No tax is imposed when the credits allowable to the decedent,
21 except the credit allowed by section 2011 of the Internal Revenue Code,
22 but including the credit allowed by section 2010 of the Internal
23 Revenue Code, equals or exceeds the tentative tax as provided in
24 section 2001(b) of the Internal Revenue Code for federal estate tax
25 purposes; and

26 (b) The tax imposed by this section shall not exceed the amount of
27 the taxable estate, as defined in section 2051 of the Internal Revenue
28 Code, reduced by the net federal estate tax payable.

29 (2) The Washington estate and transfer tax for a generation-
30 skipping transfer shall be the greater of:

31 (a) Ten percent of the taxable amount as provided in section
32 2602(1) of the Internal Revenue Code; or

33 (b) The tax determined under subsection (3) of this section based
34 on the taxable amount as provided in section 2602(1) of the Internal
35 Revenue Code.

36 (3) Rate schedule:

37 If the tentative taxable The Washington estate and

1	amount or generation-skipping	transfer tax is:
2	taxable amount is:	
3	Not over \$90,000	1.6% of the excess
4		over \$40,000.
5	Over \$90,000 but	\$800 plus 3.2% of the
6	not over \$140,000	excess over \$90,000.
7	Over \$140,000 but	\$2,400 plus 4.8%
8	not over \$240,000	of the excess
9		over \$140,000.
10	Over \$240,000 but	\$7,200 plus 6.4%
11	not over \$440,000	of the excess
12		over \$240,000.
13	Over \$440,000 but	\$20,000 plus 8%
14	not over \$640,000	of the excess
15		over \$440,000.
16	Over \$640,000 but	\$36,000 plus 9.6%
17	not over \$840,000	of the excess
18		over \$640,000.
19	Over \$840,000 but	\$55,200 plus 11.2%
20	not over \$1,040,000	of the excess
21		over \$840,000.
22	Over \$1,040,000 but	\$77,600 plus 12.8%
23	not over \$1,540,000	of the excess
24		over \$1,040,000.
25	Over \$1,540,000 but	\$141,600 plus 14.4%
26	not over \$2,040,000	of the excess
27		over \$1,540,000.

1	Over \$2,040,000 but	\$213,600 plus 16%
2	not over \$2,540,000	of the excess
3		over \$2,040,000.
4	Over \$2,540,000 but	\$293,600 plus 17.6%
5	not over \$3,040,000	of the excess
6		over \$2,540,000.
7	Over \$3,040,000 but	\$381,600 plus 19.2%
8	not over \$3,540,000	of the excess
9		over \$3,040,000.
10	Over \$3,540,000 but	\$477,600 plus 20.8%
11	not over \$4,040,000	of the excess
12		over \$3,540,000.
13	Over \$4,040,000 but	\$581,600 plus 22.4%
14	not over \$5,040,000	of the excess
15		over \$4,040,000.
16	Over \$5,040,000 but	\$805,600 plus 24%
17	not over \$6,040,000	of the excess
18		over \$5,040,000.
19	Over \$6,040,000 but	\$1,045,600 plus 25.6%
20	not over \$7,040,000	of the excess
21		over \$6,040,000.
22	Over \$7,040,000 but	\$1,301,600 plus 27.2%
23	not over \$8,040,000	of the excess
24		over \$7,040,000.
25	Over \$8,040,000 but	\$1,573,600 plus 28.8%
26	not over \$9,040,000	of the excess
27		over \$8,040,000.

1 Over \$9,040,000 but \$1,861,600 plus 30.4%
2 not over \$10,040,000 of the excess
3 over \$9,040,000.

4 Over \$10,040,000 \$2,165,600 plus 32%
5 of the excess
6 over \$10,040,000.

7 **Sec. 507.** RCW 83.100.050 and 1988 c 64 s 6 are each amended to
8 read as follows:

9 (1) The person required to file the federal return shall file with
10 the department on or before the date the federal return is required to
11 be filed, including any extension of time for filing the federal
12 return:

13 (a) A Washington return for the tax due under this chapter upon
14 such forms and with such attachments as the department may prescribe;
15 and

16 (b) A copy of the federal return, complete with attachments and
17 accompanying documents.

18 (2) No Washington return need be filed if no federal return is
19 required. A Washington return delivered to the department by United
20 States mail shall be considered to have been received by the department
21 on the date of the United States postmark stamped on the cover in which
22 the return is mailed, if the postmark date is within the time allowed
23 for filing the Washington return, including extensions.

24 ((+2)) (3) If the person required to file the federal return has
25 obtained an extension of time for filing the federal return, the person
26 shall file the Washington return within the same time period and in the
27 same manner as provided for the federal return. A copy of the federal
28 extension shall be filed with the department on or before the date the
29 Washington return is due, not including any extension of time for
30 filing, or within thirty days of issuance, whichever is later.

31 **Sec. 508.** RCW 83.100.070 and 1988 c 64 s 8 are each amended to
32 read as follows:

33 (1) Any tax due under this chapter which is not paid by the due
34 date under RCW 83.100.060(1) shall bear interest at the rate ((of
35 ~~twelve percent per annum~~)) provided in RCW 82.32.050(2) from the date
36 the tax is due until paid.

1 (2) ~~((If the Washington return is not filed when due under RCW~~
2 ~~83.100.050, then the person required to file the federal return shall~~
3 ~~pay, in addition to interest, a penalty equal to five percent of the~~
4 ~~tax due for each month after the date the return is due until filed.~~
5 ~~No penalty may exceed twenty five percent of the tax.)) If payment of
6 any tax due on a return to be filed by a taxpayer is not received by
7 the department of revenue by the due date, including extensions, if
8 any, the department shall assess a penalty of five percent of the
9 amount of the tax; and if the tax is not received within thirty days
10 after the due date, including extensions, if any, the department shall
11 assess a total penalty of ten percent of the amount of the tax; and if
12 the tax is not received within sixty days after the due date, including
13 extensions, if any, the department shall assess a total penalty of
14 twenty percent of the amount of the tax.~~

15 (3) If payment of any tax assessed by the department of revenue is
16 not received by the department by the due date specified in the notice,
17 or any extension, the department shall add a penalty of ten percent of
18 the amount of the additional tax found due.

19 (4) If a warrant is issued by the department of revenue for the
20 collection of taxes, increases, and penalties, the department shall add
21 a penalty of five percent of the amount of the tax, but not less than
22 ten dollars.

23 (5) If the department finds that all or part of the deficiency
24 resulted from an intent to evade the tax payable under this chapter,
25 the department shall add a further penalty of fifty percent of the
26 additional tax found to be due.

27 (6) The aggregate penalties imposed under subsections (2) through
28 (4) of this section may not exceed twenty-five percent of the tax due,
29 or twenty dollars, whichever is greater.

30 (7) If the department of revenue finds that the payment by a
31 taxpayer of a tax is less than that properly due, and the failure of a
32 taxpayer to pay any tax by the due date was the result of circumstances
33 beyond the control of the taxpayer, the department of revenue shall
34 waive or cancel any interest or penalties imposed under this chapter
35 with respect to the tax. The department of revenue shall prescribe
36 rules for the waiver or cancellation of interest or penalties imposed
37 by this chapter.

1 **Sec. 509.** RCW 83.100.080 and 1988 c 64 s 9 are each amended to
2 read as follows:

3 Upon request of the person who has filed a Washington return, the
4 department shall issue a release when the tax due under this chapter
5 has been paid. Upon issuance of a release, all property subject to the
6 tax shall be free of any claim for the tax by the state.

7 **Sec. 510.** RCW 83.100.090 and 1988 c 64 s 10 are each amended to
8 read as follows:

9 (1) If upon examination of any return or from other information
10 obtained by the department it appears that a tax or penalty has been
11 paid less than that properly due, or that the return is not correct,
12 the department shall assess against the taxpayer such additional amount
13 found to be due, or correct the return, and shall add to the amount
14 found to be due interest at the rate provided in RCW 82.32.050(2).

15 (a) The department shall notify the taxpayer by mail of the
16 additional amount and the same shall become due and shall be paid
17 within thirty days from the date of the notice, or within such further
18 time as the department may provide.

19 (b) The department in its examination of returns under this chapter
20 shall coordinate its activities with the United States internal revenue
21 service and shall avoid a duplication of effort whenever possible. The
22 department shall cooperate with the United States internal revenue
23 service and provide valuation or other assistance when such assistance
24 is requested and may be efficiently provided. The department shall
25 enter into such information sharing agreements with the United States
26 internal revenue service as are necessary to efficiently implement this
27 chapter.

28 (2) No assessment or correction of an assessment for additional
29 taxes due may be made by the department more than three years after the
30 date the return was due, including extensions, if any, except:

31 (a) Against a taxpayer who has not filed a return as required by
32 this chapter;

33 (b) Upon a showing of fraud or of misrepresentation of a material
34 fact by the taxpayer;

35 (c) Where a taxpayer has executed a written waiver of such
36 limitation; or

37 (d) Where an adjustment in, or final determination of, the amount
38 of federal tax is made more than three years after the date the return

1 was due, including extensions, if any. No assessment or correction of
2 assessment shall be made more than three years after the date of the
3 adjustment in, or final determination of, the amount of federal tax.

4 (3) If the person required to file the federal return files an
5 amended federal return, that person shall (~~immediately~~), at the time
6 the amended federal return is filed, file with the department an
7 amended Washington return with a copy of the amended federal return and
8 all accompanying documents. If the amended Washington return requires
9 payment of an additional tax under this chapter, the tax shall be paid
10 in accordance with RCW 83.100.060 and interest and penalties, if any,
11 shall be paid in accordance with RCW 83.100.070.

12 (~~(+2)~~) (4) Upon any adjustment in, or final determination of, the
13 amount of federal tax due, the person required to file the federal
14 return shall notify the department in writing within sixty days after
15 the adjustment or final determination. If the adjustment or final
16 determination requires payment of an additional tax under this chapter,
17 the tax shall be paid in accordance with RCW 83.100.060 and interest
18 and penalties, if any, shall be paid in accordance with RCW 83.100.070.

19 NEW SECTION. Sec. 511. A new section is added to chapter 83.100
20 RCW to read as follows:

21 If the value of a transfer has been determined under this chapter
22 and the same transfer is examined and valued for federal tax purposes
23 with the new value becoming fixed under federal law either by agreement
24 with the taxpayer or through final determination in the federal court,
25 then the value as fixed under this chapter shall be increased or
26 decreased to the federal tax value.

27 NEW SECTION. Sec. 512. A new section is added to chapter 83.100
28 RCW to read as follows:

29 (1) If a person fails or refuses to make a return or to make
30 available for examination the records required by this chapter, the
31 department shall proceed, in such manner as it may deem best, to obtain
32 facts and information on which to base its estimate of the tax. To
33 this end, the department may examine the books, records, and papers of
34 the person and may take evidence, on oath, of the person, relating to
35 the subject of inquiry.

36 (2) As soon as the department procures such facts and information
37 as it is able to obtain upon which to base the assessment of a tax

1 payable by a person who has failed or refused to make a return, it
2 shall proceed to determine and assess against the person the tax and
3 penalties due, but such action may not deprive the person from
4 appealing the assessment as provided in this chapter. The department
5 shall add to the assessment the interest and penalties provided in this
6 chapter. The department shall notify the taxpayer by mail of the total
7 amount of the tax, penalties, and interest, and the total amount shall
8 become due and shall be paid within thirty days from the date of the
9 notice.

10 NEW SECTION. **Sec. 513.** A new section is added to chapter 83.100
11 RCW to read as follows:

12 (1) A person having paid a tax, original assessment, or corrected
13 assessment, or having been issued a notice of additional taxes,
14 correction of a return, delinquent taxes, interest, or penalties
15 assessed by the department, may petition the department in writing for
16 a correction of the amount of the assessment or a review of the tax
17 liability, and a conference for examination and review of the
18 assessment or tax liability. The petition shall set forth the reasons
19 why the correction should be granted and the amount of the tax,
20 interest, or penalties that the petitioner believes is due. The
21 department shall promptly consider the petition and may grant or deny
22 it. If denied, the petitioner shall be notified by mail of the denial
23 forthwith. If a conference is granted, the department shall fix the
24 time and place for the conference and notify the petitioner by mail.
25 After the conference, the department may make a determination as may
26 appear to it to be just and lawful and shall mail a copy of its
27 determination to the petitioner.

28 (2) A petition for correction of assessment shall be made within
29 thirty days after the issuance of the original notice of the assessment
30 amount or within the period covered by an extension of the due date
31 granted by the department. If no such petition is filed within the
32 thirty-day period, the assessment covered by the notice shall become
33 final.

34 (3) A petition for a review of a tax liability that has been paid
35 may be made any time within the period for payment of refunds.

36 NEW SECTION. **Sec. 514.** A new section is added to chapter 83.100
37 RCW to read as follows:

1 (1) Any person having paid any tax as required by this chapter and
2 feeling aggrieved by the amount of the tax may appeal to the superior
3 court of Thurston county, within the time limitation for a refund
4 provided in this chapter or, if an application for refund has been made
5 to the department within that time limitation, then within thirty days
6 after rejection of the application, whichever time limitation is later.
7 In the appeal the taxpayer shall set forth the amount of the tax
8 imposed upon the taxpayer that the taxpayer concedes to be the correct
9 tax and the reason why the tax should be reduced or abated. The appeal
10 shall be perfected by serving a copy of the notice of appeal upon the
11 department within the time specified in this section and by filing the
12 original thereof with proof of service with the clerk of the superior
13 court of Thurston county.

14 (2) The trial in the superior court on appeal is de novo and
15 without the necessity of pleadings other than the notice of appeal.
16 The burden rests upon the taxpayer to prove that the tax as paid by the
17 taxpayer is incorrect, either in whole or in part, and to establish the
18 correct amount of the tax. In the proceeding the taxpayer is deemed
19 the plaintiff, and the state, the defendant, and both parties are
20 entitled to subpoena the attendance of witnesses as in other civil
21 actions and to produce evidence that is competent, relevant, and
22 material to determine the correct amount of the tax that should be paid
23 by the taxpayer. Either party may seek appellate review in the same
24 manner as other civil actions are appealed to the appellate courts.

25 (3) It is not necessary for the taxpayer to protest against the
26 payment of a tax or to make a demand to have the tax refunded or to
27 petition the department or the director for a hearing in order to
28 appeal to the superior court, but no court action or proceeding of any
29 kind may be maintained by the taxpayer to recover a tax or a part of a
30 tax paid, except as provided in this section.

31 (4) The provisions of this section do not apply to a tax payment
32 that has been the subject of an appeal to the board of tax appeals with
33 respect to which appeal a formal hearing has been elected.

34 **Sec. 515.** RCW 83.100.130 and 1988 c 64 s 12 are each amended to
35 read as follows:

36 ~~((Whenever the department determines that a person required to file
37 the federal return has overpaid the tax due under this chapter, the
38 department shall refund the amount of the overpayment, together with~~

1 ~~interest at the then existing rate under RCW 83.100.070(1). If the~~
2 ~~application for refund, with supporting documents, is filed within four~~
3 ~~months after an adjustment or final determination of federal tax~~
4 ~~liability, the department shall pay interest until the date the refund~~
5 ~~is mailed. If the application for refund, with supporting documents,~~
6 ~~is filed after four months after the adjustment or final determination,~~
7 ~~the department shall pay interest only until the end of the four-month~~
8 ~~period.)~~)

9 (1) If, upon receipt of an application by a taxpayer for a refund
10 or for an audit of the taxpayer's return, or upon an examination of the
11 return of a taxpayer, it is determined by the department that within
12 the statutory period for assessment of taxes prescribed by RCW
13 83.100.090 a tax has been paid in excess of that properly due, the
14 excess amount paid within such period shall be refunded to the
15 taxpayer. No refund may be made for taxes paid more than three years
16 prior to the date that the refund application is made or examination of
17 records is completed, except taxes may be refunded after an adjustment
18 in, or final determination of, the federal tax liability has been made,
19 but such refund may not be made for taxes paid more than three years
20 prior to the date the refund application is made or the adjustment, or
21 final determination of, the federal tax liability is made.

22 (2) A judgment for which a recovery is granted by a court of
23 competent jurisdiction, not appealed from, for tax, penalties, and
24 interest that were paid by the taxpayer, and costs, in a suit by a
25 taxpayer shall be paid in like manner, upon the filing with the
26 department of a certified copy of the order or judgment of the court.

27 (3) Interest at the rate provided in RCW 82.32.060 shall be allowed
28 by the department and by a court on the amount of a refund or recovery
29 allowed to a taxpayer for taxes, penalties, or interest paid by the
30 taxpayer.

31 **Sec. 516.** RCW 83.100.150 and 1988 c 64 s 14 are each amended to
32 read as follows:

33 ~~((1))~~ The department may collect the ~~((estate tax))~~ taxes imposed
34 under ~~((RCW 83.100.030 and 83.100.040))~~ this chapter, including
35 interest and penalties, and shall represent this state in all matters
36 pertaining to the same, either before courts or in any other manner.
37 ~~((At any time after the Washington return is due, the department may~~
38 ~~file its findings regarding the amount of the tax, the federal credit,~~

1 the person required to file the federal return, and all persons having
2 an interest in property subject to the tax with the clerk of the
3 superior court in the matter of the estate of the decedent or, if no
4 probate or administration proceedings have been commenced in any court
5 of this state, of the superior court for the county in which the
6 decedent was a resident, if the resident was a domiciliary, or, if the
7 decedent was a nondomiciliary, of any superior court which has
8 jurisdiction over the property. — Such a court first acquiring
9 jurisdiction shall retain jurisdiction to the exclusion of every other
10 court.

11 (2) The department may collect the generation skipping transfer tax
12 under RCW 83.100.045, including interest and penalties, and shall
13 represent this state in all matters pertaining to the same, either
14 before courts or in any other manner. At any time after the Washington
15 return is due, the department may file its findings regarding the
16 amount of the tax, the federal credit, the person required to file the
17 federal return, and all persons having an interest in property subject
18 to the tax with the clerk of the superior court in the matter of the
19 trust or the estate of the decedent, if any, or, if no trust, probate
20 or administration proceedings have been commenced in any court of this
21 state, of any superior court which has jurisdiction over the property.
22 Such a court first acquiring jurisdiction shall retain jurisdiction to
23 the exclusion of every other court.)) The provisions, methods, and
24 processes provided in chapter 82.32 RCW relating to the collection of
25 taxes apply to the collection of taxes imposed by this chapter.

26 **Sec. 517.** RCW 82.03.190 and 1989 c 378 s 5 are each amended to
27 read as follows:

28 Any person having received notice of a denial of a petition or a
29 notice of determination made under RCW 82.32.160, 82.32.170, 82.34.110,
30 ((or)) 82.49.060, or section 513 of this act may appeal, within thirty
31 days after the mailing of the notice of such denial or determination,
32 to the board of tax appeals. In the notice of appeal the taxpayer
33 shall set forth the amount of the tax which the taxpayer contends
34 should be reduced or refunded and the reasons for such reduction or
35 refund, in accordance with rules of practice and procedure prescribed
36 by the board. A copy of the notice of appeal shall be provided to the
37 department within the time specified in the rules of practice and
38 procedure prescribed by the board. However, if the notice of appeal

1 relates to an application made to the department under chapter 82.34
2 RCW, the taxpayer shall set forth the amount to which the taxpayer
3 claims the credit or exemption should apply, and the grounds for such
4 contention, in accordance with rules of practice and procedure
5 prescribed by the board. If the taxpayer intends that the hearing
6 before the board be held pursuant to the administrative procedure act
7 (chapter 34.05 RCW), the notice of appeal shall also so state. In the
8 event that the notice of appeal does not so state, the department may,
9 within thirty days from the date of its receipt of the notice of
10 appeal, file with the board notice of its intention that the hearing be
11 held pursuant to the administrative procedure act.

12 NEW SECTION. **Sec. 518.** The following acts or parts of acts are
13 each repealed:

- 14 (1) RCW 83.100.160 and 1988 c 64 s 15;
- 15 (2) RCW 83.100.170 and 1988 c 64 s 16;
- 16 (3) RCW 83.100.180 and 1988 c 64 s 17; and
- 17 (4) RCW 83.100.190 and 1988 c 64 s 18.

18 NEW SECTION. **Sec. 519.** Sections 501 through 518, chapter . . . ,
19 Laws of 1993 (sections 501 through 518 of this act) shall apply to all
20 returns required to be filed on or after the effective date of sections
21 501 through 518, chapter . . . , Laws of 1993 (sections 501 through 518
22 of this act), including amended or adjusted returns, regardless, in the
23 case of a decedent, if the date of death of the decedent occurred prior
24 to the effective date of sections 501 through 518, chapter . . . , Laws
25 of 1993 (sections 501 through 518 of this act).

26 (End of part)

1 (6) A credit is allowed against the tax imposed in this section
2 equal to the amount of any tax paid under section 301 of chapter
3 Laws of 1993 (E2SSB 5304) during the same calendar year.

4 NEW SECTION. **Sec. 602.** A new section is added to chapter 82.04
5 RCW to read as follows:

6 This chapter does not apply to any health maintenance organization,
7 health care service contractor, or certified health plan in respect to
8 premiums or prepayments that are taxable under section 601 of this act.

9 (End of part)

1 PART VII

2 INSURANCE PREMIUMS TAX CREDIT REPEAL

3 Sec. 701. RCW 48.32A.090 and 1990 c 51 s 6 are each amended to
4 read as follows:

5 (1) The association shall issue to each insurer paying an
6 assessment under this chapter certificates of contribution, in
7 appropriate form and terms as prescribed or approved by the
8 commissioner, for the amounts so paid into the respective funds. All
9 outstanding certificates against a particular fund shall be of equal
10 dignity and priority without reference to amounts or dates of issue.

11 ~~(2) ((An outstanding certificate of contribution shall be shown by~~
12 ~~the insurer in its financial statements as an admitted asset for such~~
13 ~~amount and period of time as the commissioner may approve: PROVIDED,~~
14 ~~That unless a longer period has been allowed by the commissioner the~~
15 ~~insurer shall in any event at its option have the right to so show a~~
16 ~~certificate of contribution as an admitted asset at percentages of~~
17 ~~original face amount for calendar years as follows:~~

- 18 ~~100% for the calendar year of issuance;~~
19 ~~80% for the first calendar year after the year of issuance;~~
20 ~~60% for the second calendar year after the year of issuance;~~
21 ~~40% for the third calendar year after the year of issuance;~~
22 ~~20% for the fourth calendar year after the year of issuance; and~~
23 ~~0% for the fifth and subsequent calendar years after the year of~~
24 ~~issuance.~~

25 Notwithstanding the foregoing, if the value of a certificate of
26 contribution is or becomes less than one thousand dollars, the entire
27 amount may be written off by the insurer in that year.

28 ~~(3) The insurer shall offset the amount written off by it in a~~
29 ~~calendar year under subsection (2) of this section against its premium~~
30 ~~tax liability to this state accrued with respect to business transacted~~
31 ~~in such year.~~

32 ~~(4)) Any sums recovered by the association representing sums which~~
33 ~~have theretofore been written off by contributing insurers and offset~~
34 ~~against premium taxes ((as provided in subsection (3) of this~~
35 ~~section,)) before the effective date of this section shall be paid by~~

1 the association to the commissioner and (~~by him~~) then deposited with
2 the state treasurer for credit to the general fund of the state of
3 Washington.

4 (~~(5)~~) (3) No distribution to stockholders, if any, of a
5 liquidating insurer shall be made unless and until the total amount of
6 assessments levied by the association with respect to such insurer have
7 been fully recovered by the association.

8 NEW SECTION. Sec. 702. RCW 48.32.050 and 1975-'76 2nd ex.s. c 109
9 s 5 & 1971 ex.s. c 265 s 5 are each repealed.

10 (End of part)

1 PART VIII

2 RESALE CERTIFICATES

3 Sec. 801. RCW 82.04.470 and 1983 2nd ex.s. c 3 s 29 are each
4 amended to read as follows:

5 (1) ~~Unless a seller has taken from the purchaser a resale~~
6 ~~certificate ((signed by, and bearing the name and address and~~
7 ~~registration number of the purchaser to the effect that the property or~~
8 ~~service was purchased for resale, or unless the nature of the~~
9 ~~transaction is clearly shown as a sale at wholesale by the books and~~
10 ~~records of the taxpayer in such other manner as the department of~~
11 ~~revenue shall by regulation provide)), the burden of proving that a~~
12 ~~sale of tangible personal property, or of telephone service as defined~~
13 ~~in RCW 82.04.065, was not a sale at retail shall be upon the person who~~
14 ~~made it.~~

15 (2) A resale certificate shall be presented to the seller either
16 at the time of sale or be on file with the seller before a purchase can
17 be made without payment of sales tax. If the seller does not have a
18 resale certificate on file, the seller is liable for the tax unless the
19 seller obtains a resale certificate from the buyer.

20 (3) Resale certificates shall be valid for a period of four years
21 from the date the certificate is provided to the seller.

22 (4) The department may provide by rule for suggested forms for
23 resale certificates and the other documents containing the information
24 that will be accepted as resale certificates. The department shall
25 provide by rule the categories of items that must be specified on
26 resale certificates and the business classifications that may use a
27 blanket resale certificate.

28 (5) As used in this section, "resale certificate" means a document
29 provided by a buyer to a seller at the time of sale stating that the
30 purchase is for resale in the regular course of business, or that the
31 buyer is exempt from retail sales tax, and containing the following
32 information:

33 (a) The name and address of the buyer;

34 (b) The uniform business identifier or revenue registration number
35 of the buyer;

36 (c) The type of business engaged in;

1 (d) The categories of items to be purchased for resale or that are
2 exempt, unless the buyer is in a business classification that may
3 present a blanket resale certificate as provided by the department by
4 rule;

5 (e) The date on which the certificate was provided;

6 (f) A statement that the items purchased either: (i) Are purchased
7 for resale in the regular course of business; or (ii) are exempt from
8 tax pursuant to statute;

9 (g) A statement that the buyer acknowledges that misuse of the
10 certificate subjects him or her to a penalty of fifty percent of the
11 tax due, in addition to the tax, interest, and any other penalties
12 imposed;

13 (h) The name of the individual authorized to sign the certificate,
14 printed in a legible fashion;

15 (i) The signature of the authorized individual; and

16 (j) The name of the seller.

17 NEW SECTION. Sec. 802. A new section is added to chapter 82.08
18 RCW to read as follows:

19 If a buyer normally is engaged in both consuming and reselling
20 certain types of articles of tangible personal property and is not able
21 to determine at the time of purchase whether the particular property
22 acquired will be consumed or resold, the buyer may use a resale
23 certificate for the entire purchase if the buyer principally resells
24 the articles according to the general nature of the buyer's business.
25 The buyer shall account for the value of any articles purchased with a
26 resale certificate that are used by the buyer and remit the sales tax
27 on the articles to the department.

28 A buyer who pays a tax on all purchases and subsequently resells an
29 article at retail, without intervening use by the buyer, shall collect
30 the tax from the purchaser as otherwise provided by law and is entitled
31 to a deduction on the buyer's tax return equal to the cost to the buyer
32 of the property resold. The deduction is allowed only if the taxpayer
33 keeps and preserves records that show the names of the persons from
34 whom the articles were purchased, the date of the purchase, the type of
35 articles, the amount of the purchase, and the tax that was paid. The
36 department shall provide by rule for the refund or credit of retail
37 sales tax paid by a buyer for purchases that are later sold at
38 wholesale without intervening use by the buyer.

1 NEW SECTION. **Sec. 803.** A new section is added to chapter 82.32
2 RCW to read as follows:

3 Any person who uses a resale certificate to purchase items without
4 payment of sales tax and who is not entitled to use the certificate for
5 the purchase shall be assessed a penalty of fifty percent of the tax
6 due, in addition to all other taxes, penalties, and interest due, on
7 the improperly purchased item. The department may waive the penalty
8 imposed under this section if it finds that the use of the certificate
9 was due to circumstances beyond the taxpayer's control or if the
10 certificate was used for purchases for dual purposes. The department
11 shall define by rule what circumstances are considered to be beyond the
12 taxpayer's control.

13 **Sec. 804.** RCW 82.08.050 and 1992 c 206 s 2 are each amended to
14 read as follows:

15 The tax hereby imposed shall be paid by the buyer to the seller,
16 and each seller shall collect from the buyer the full amount of the tax
17 payable in respect to each taxable sale in accordance with the schedule
18 of collections adopted by the department pursuant to the provisions of
19 RCW 82.08.060. Collection agencies that are paid by commissions may
20 collect the tax imposed under this chapter from the person owing or
21 alleged to owe a claim as a collection cost in lieu of collecting the
22 tax from the buyer. The tax required by this chapter, to be collected
23 by the seller, shall be deemed to be held in trust by the seller until
24 paid to the department, and any seller who appropriates or converts the
25 tax collected to his or her own use or to any use other than the
26 payment of the tax to the extent that the money required to be
27 collected is not available for payment on the due date as prescribed in
28 this chapter shall be guilty of a gross misdemeanor.

29 In case any seller fails to collect the tax herein imposed or
30 having collected the tax, fails to pay it to the department in the
31 manner prescribed by this chapter, whether such failure is the result
32 of his or her own acts or the result of acts or conditions beyond his
33 or her control, he or she shall, nevertheless, be personally liable to
34 the state for the amount of the tax, unless the seller has taken from
35 the buyer in good faith a properly executed retail certificate as
36 provided in RCW 82.04.470.

37 The amount of tax, until paid by the buyer to the seller or to the
38 department, shall constitute a debt from the buyer to the seller and

1 any seller who fails or refuses to collect the tax as required with
2 intent to violate the provisions of this chapter or to gain some
3 advantage or benefit, either direct or indirect, and any buyer who
4 refuses to pay any tax due under this chapter shall be guilty of a
5 misdemeanor. The tax required by this chapter to be collected by the
6 seller shall be stated separately from the selling price in any sales
7 invoice or other instrument of sale. On all retail sales through
8 vending machines, the tax need not be stated separately from the
9 selling price or collected separately from the buyer. For purposes of
10 determining the tax due from the buyer to the seller and from the
11 seller to the department it shall be conclusively presumed that the
12 selling price quoted in any price list, sales document, contract or
13 other agreement between the parties does not include the tax imposed by
14 this chapter, but if the seller advertises the price as including the
15 tax or that the seller is paying the tax, the advertised price shall
16 not be considered the selling price.

17 Where a buyer has failed to pay to the seller the tax imposed by
18 this chapter and the seller has not paid the amount of the tax to the
19 department, the department may, in its discretion, proceed directly
20 against the buyer for collection of the tax, in which case a penalty of
21 ten percent may be added to the amount of the tax for failure of the
22 buyer to pay the same to the seller, regardless of when the tax may be
23 collected by the department; and all of the provisions of chapter 82.32
24 RCW, including those relative to interest and penalties, shall apply in
25 addition; and, for the sole purpose of applying the various provisions
26 of chapter 82.32 RCW, the twenty-fifth day of the month following the
27 tax period in which the purchase was made shall be considered as the
28 due date of the tax.

29 (End of part)

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PART IX
CONTRIBUTIONS IN AID OF CONSTRUCTION

NEW SECTION. **Sec. 901.** RCW 82.04.417 and 1969 ex.s. c 156 s 1 are
each repealed.

(End of part)

1 PART X

2 STATE TRADE AND CONVENTION CENTER

3 Sec. 1001. RCW 67.40.090 and 1991 c 2 s 3 are each amended to read
4 as follows:

5 (1) (~~Commencing April 1, 1982,~~) There is imposed, and the
6 department of revenue shall collect, in King county a special excise
7 tax on the sale of or charge made for the furnishing of lodging by a
8 hotel, rooming house, tourist court, motel, or trailer camp, and the
9 granting of any similar license to use real property, as distinguished
10 from the renting or leasing of real property, except that no such tax
11 may be levied on any premises having fewer than sixty lodging units.
12 It shall be presumed that the occupancy of real property for a
13 continuous period of one month or more constitutes rental or lease of
14 real property and not a mere license to use or enjoy the same. The
15 legislature on behalf of the state pledges to maintain and continue
16 this tax until the bonds authorized by this chapter are fully redeemed,
17 both principal and interest.

18 (2) The rate of the tax (~~imposed under this section~~) shall be as
19 (~~provided in this subsection.~~) follows:

20 (a) (~~From April 1, 1982, through December 31, 1982, inclusive, the~~
21 ~~rate shall be three percent in the city of Seattle and two percent in~~
22 ~~King county outside the city of Seattle.~~

23 (b) ~~From January 1, 1983, through June 30, 1988, inclusive, the~~
24 ~~rate shall be five percent in the city of Seattle and two percent in~~
25 ~~King county outside the city of Seattle.~~

26 (c) ~~From July 1, 1988, through December 31, 1992, inclusive, the~~
27 ~~rate shall be six percent in the city of Seattle and two and four-~~
28 ~~tenths percent in King county outside the city of Seattle.~~

29 (d) ~~From January 1, 1993,~~) Until the change date, the rate shall
30 be seven percent in the city of Seattle and two and eight-tenths
31 percent in King county outside the city of Seattle.

32 ((~~e~~)) (b) On and after the change date, the rate shall be six
33 percent in the city of Seattle and two and four-tenths percent in King
34 county outside the city of Seattle.

1 ~~((f))~~ (c) As used in this section, "change date" means the
2 October 1st next occurring after certification occurs under ~~((g))~~ (d)
3 of this subsection.

4 ~~((g))~~ (d) On August 1st of 1998 and of each year thereafter until
5 certification occurs under this subsection, the state treasurer shall
6 determine whether seventy-one and forty-three one-hundredths percent of
7 the revenues actually collected and deposited with the state treasurer
8 for the tax imposed under this section during the twelve months ending
9 June 30th of that year, excluding penalties and interest, exceeds the
10 amount actually paid in debt service during the same period for bonds
11 issued under RCW 67.40.030 by at least two million dollars. If so, the
12 state treasurer shall so certify to the department of revenue.

13 (3) An additional tax is imposed for the period July 1, 1993,
14 through June 30, 1995, equal to the tax payable under subsection (2) of
15 this section multiplied by twenty percent.

16 (4) The proceeds of the special excise tax shall be deposited as
17 ~~((provided in this subsection.))~~ follows:

18 (a) ~~((Through June 30, 1988, inclusive, all proceeds shall be~~
19 ~~deposited in the state convention and trade center account.~~

20 (b) ~~From July 1, 1988, through December 31, 1992, inclusive,~~
21 ~~eighty-three and thirty-three one-hundredths percent of the proceeds~~
22 ~~shall be deposited in the state convention and trade center account.~~
23 ~~The remainder shall be deposited in the state convention and trade~~
24 ~~center operations account.~~

25 ~~(c) From January 1, 1993,~~) Until the change date, eighty-five and
26 seventy-one-hundredths percent of the proceeds of the tax imposed under
27 subsection (2) of this section shall be deposited in the state
28 convention and trade center account. The remainder of the tax imposed
29 under subsection (2) of this section shall be deposited in the state
30 convention and trade center operations account.

31 ~~((d))~~ (b) On and after the change date, eighty-three and thirty-
32 three one-hundredths percent of the proceeds of the tax imposed under
33 subsection (2) of this section shall be deposited in the state
34 convention and trade center account. The remainder of the tax imposed
35 under subsection (2) of this section shall be deposited in the state
36 convention and trade center operations account.

37 (c) One hundred percent of the proceeds of the additional tax
38 imposed under subsection (3) of this section shall be deposited in the
39 state convention and trade center operations account.

