

**Chapter 82.04 RCW**  
**BUSINESS AND OCCUPATION TAX**

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*Admission tax*  
*cities: RCW 35.21.280.*  
*counties: Chapter 36.38 RCW.*

*Commute trip reduction incentives: Chapter 82.70 RCW.*

*Housing authorities, tax exemption: Chapter 35.82 RCW.*

*Public utility districts, privilege taxes: Chapter 54.28 RCW.*

**RCW 82.04.010 Introductory.** Unless the context clearly requires otherwise, the definitions set forth in the sections preceding RCW 82.04.220 apply throughout this chapter. [1996 c 93 s 4; 1961 c 15 s 82.04.010. Prior: 1955 c 389 s 2; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**RCW 82.04.020 "Tax year," "taxable year."** "Tax year" or "taxable year" means either the calendar year, or the taxpayer's fiscal year when permission is obtained from the department of revenue to use a fiscal year in lieu of the calendar year. [1975 1st ex.s. c 278 s 39; 1961 c 15 s 82.04.020. Prior: 1955 c 389 s 3; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5; Rem. Supp. 1949 s 8370-5, part.]

**Construction—Severability—1975 1st ex.s. c 278:** See notes following RCW 11.08.160.

**RCW 82.04.030 "Person," "company."** "Person" or "company", herein used interchangeably, means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof. [1995 c 318 s 1; 1963 ex.s. c 28 s 1; 1961 c 15 s 82.04.030. Prior: 1955 c 389 s 4; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Effective date—1995 c 318:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 11, 1995]." [1995 c 318 s 12.]

**Effective date—1963 ex.s. c 28:** "This act shall take effect on July 1, 1963." [1963 ex.s. c 28 s 17.]

*International companies investing in Washington—Eligibility for excise tax incentives: RCW 43.330.068.*

**RCW 82.04.035 "Plantation Christmas trees."** "Plantation Christmas trees" means Christmas trees which are exempt from the timber excise tax under RCW 84.33.170. [1987 c 23 s 1.]

**RCW 82.04.040 "Sale," "casual or isolated sale," "lease or rental," "adoption fee," "animal care and control agency," "animal rescue group," "animal rescue organization," "senior living community." (Effective until January 1, 2030.)** (1) Except as otherwise provided in this subsection, "sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under RCW 82.04.050. It includes lease or rental, conditional sale contracts, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for

compensation whether consumed upon the premises or not. The term "sale" does not include the transfer of the ownership of, title to, or possession of:

(a) An animal by an animal rescue organization in exchange for the payment of an adoption fee;

(b) An abandoned vehicle sold by a registered tow truck operator to a successful bidder at public auction or, if there is no successful bidder, to a licensed vehicle wrecker, hulk hauler, or scrap processor, as provided in RCW 46.55.130. Nothing in this subsection

(1)(b) may be construed as providing an exemption from:

(i) The tax imposed by chapter 82.12 RCW on the use of an abandoned vehicle by any consumer; or

(ii) Taxes imposed under this chapter and chapter 82.08 RCW on automobile towing and automobile storage services provided by a registered tow truck operator; or

(c) Food, drink, or meals furnished by a senior living community to tenants as part of a rental or residency agreement for which no separate charge is made, regardless of whether the tenant is a resident for purposes of chapter 18.20 or 18.390 RCW.

(2) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.

(3)(a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. "Lease or rental" includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1), as amended or renumbered as of January 1, 2003. The definition in this subsection (3) must be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the United States internal revenue code, Washington state's commercial code, or other provisions of federal, state, or local law.

(b) "Lease or rental" does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments, and payment of an option price does not exceed the greater of \$100 or one percent of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (3)(b)(iii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(4)(a) "Adoption fee" means an amount charged by an animal rescue organization to adopt an animal, except that "adoption fee" does not include any separately itemized charge for any incidental inanimate items provided to persons adopting an animal, including food, identification tags, collars, and leashes.

(b) "Animal care and control agency" means the same as in RCW 16.52.011 and also includes any similar entity operating outside of this state.

(c) "Animal rescue group" means a nonprofit organization that:

- (i) (A) Is exempt from federal income taxation under 26 U.S.C. Sec. 501(c) of the federal internal revenue code as it exists on July 23, 2017; or
- (B) Is registered as a charity with the Washington secretary of state under chapter 19.09 RCW, whether such registration is required by law or voluntary;
- (ii) Has as its primary purpose the prevention of abuse, neglect, cruelty, exploitation, or homelessness of animals; and
- (iii) Exclusively obtains dogs, cats, or other animals for placement that are:
  - (A) Stray or abandoned;
  - (B) Surrendered or relinquished by animal owners or caretakers;
  - (C) Transferred from other animal rescue organizations; or
  - (D) Born in the care of such nonprofit organization other than through intentional breeding by the nonprofit organization.
- (d) "Animal rescue organization" means an animal care and control agency or an animal rescue group.
- (e) "Senior living community" means any facility or campus operated by a person licensed or registered under chapter 18.20 or 18.390 RCW. [2023 c 416 s 1; 2019 c 357 s 2; 2017 c 323 s 201; 2004 c 153 s 402; 2003 c 168 s 103; 1961 c 15 s 82.04.040. Prior: 1959 ex.s. c 5 s 1; 1959 ex.s. c 3 s 1; 1955 c 389 s 5; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Expiration date—2023 c 416 s 1:** "Section 1 of this act expires January 1, 2030." [2023 c 416 s 5.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2023 c 416:** See note following RCW 82.12.9993.

**Tax preference performance statement—2019 c 357:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 357, Laws of 2019. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief to certain businesses or individuals as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to allow registered tow truck operators to recoup their expenditures associated with removing abandoned vehicles from the roads and highways of Washington.

(4) If a review finds that the average cost of towing, storing, and disposing of an abandoned vehicle exceeds the average revenue of the sale of an abandoned vehicle by an amount greater than the value of the retail sales and use tax authorized in section 2 of this act, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and

review committee may refer to any data collected by the state." [2019 c 357 s 1.]

**Expiration date—2019 c 357:** "This act expires January 1, 2030." [2019 c 357 s 3.]

**Application—2017 c 323 ss 201 and 202:** "Sections 201 and 202 of this act apply both prospectively and retroactively to July 1, 2015." [2017 c 323 s 203.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** "RCW 82.32.805 and 82.32.808 do not apply to any provisions of this act." [2017 c 323 s 1101.]

**Retroactive effective date—Effective date—2004 c 153:** See note following RCW 82.08.0293.

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**RCW 82.04.040 "Sale," "casual or isolated sale," "lease or rental," "adoption fee," "animal care and control agency," "animal rescue group," "animal rescue organization," "senior living community." (Effective January 1, 2030.)** (1) Except as otherwise provided in this subsection, "sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under RCW 82.04.050. It includes lease or rental, conditional sale contracts, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not. The term "sale" does not include the transfer of the ownership of, title to, or possession of:

(a) An animal by an animal rescue organization in exchange for the payment of an adoption fee; or

(b) Food, drink, or meals furnished by a senior living community to tenants as part of a rental or residency agreement for which no separate charge is made, regardless of whether the tenant is a resident for purposes of chapter 18.20 or 18.390 RCW.

(2) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.

(3) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend. "Lease or rental" includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Sec. 7701(h)(1), as amended or renumbered as of January 1, 2003. The definition in this subsection (3) must be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the United

States internal revenue code, Washington state's commercial code, or other provisions of federal, state, or local law.

(b) "Lease or rental" does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments, and payment of an option price does not exceed the greater of \$100 or one percent of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (3)(b)(iii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(4)(a) "Adoption fee" means an amount charged by an animal rescue organization to adopt an animal, except that "adoption fee" does not include any separately itemized charge for any incidental inanimate items provided to persons adopting an animal, including food, identification tags, collars, and leashes.

(b) "Animal care and control agency" means the same as in RCW 16.52.011 and also includes any similar entity operating outside of this state.

(c) "Animal rescue group" means a nonprofit organization that:

(i)(A) Is exempt from federal income taxation under 26 U.S.C. Sec. 501(c) of the federal internal revenue code as it exists on July 23, 2017; or

(B) Is registered as a charity with the Washington secretary of state under chapter 19.09 RCW, whether such registration is required by law or voluntary;

(ii) Has as its primary purpose the prevention of abuse, neglect, cruelty, exploitation, or homelessness of animals; and

(iii) Exclusively obtains dogs, cats, or other animals for placement that are:

(A) Stray or abandoned;

(B) Surrendered or relinquished by animal owners or caretakers;

(C) Transferred from other animal rescue organizations; or

(D) Born in the care of such nonprofit organization other than through intentional breeding by the nonprofit organization.

(d) "Animal rescue organization" means an animal care and control agency or an animal rescue group.

(e) "Senior living community" means any facility or campus operated by a person licensed or registered under chapter 18.20 or 18.390 RCW. [2023 c 416 s 2; 2017 c 323 s 201; 2004 c 153 s 402; 2003 c 168 s 103; 1961 c 15 s 82.04.040. Prior: 1959 ex.s. c 5 s 1; 1959 ex.s. c 3 s 1; 1955 c 389 s 5; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Effective date—2023 c 416 s 2:** "Section 2 of this act takes effect January 1, 2030." [2023 c 416 s 6.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2023 c 416:** See note following RCW 82.12.9993.

**Application—2017 c 323 ss 201 and 202:** "Sections 201 and 202 of this act apply both prospectively and retroactively to July 1, 2015." [2017 c 323 s 203.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** "RCW 82.32.805 and 82.32.808 do not apply to any provisions of this act." [2017 c 323 s 1101.]

**Retroactive effective date—Effective date—2004 c 153:** See note following RCW 82.08.0293.

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**RCW 82.04.050 "Sale at retail," "retail sale."** (1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a) (i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

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

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same. For the purposes of this section, it is presumed that the sale

of and charge made for the furnishing of lodging offered regularly for public occupancy for periods of less than a month constitutes a license to use or enjoy the property subject to sales and use tax and not a rental or lease of property;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Abstract, title insurance, and escrow services;

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

(d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(e) Service charges associated with tickets to professional sporting events;

(f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g) (i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g) (ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g) (i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3) (g) (ii) (C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in

consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170;

(H) Yoga, chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6) (a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c) (i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii) (A) The service described in (c) (i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6) (c) (ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8) (a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital

goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements

providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15) (a) (xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day care center or licensed family day care provider as those terms are defined in RCW 43.216.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection

(15) (a) (xix): (A) Instructional lessons; (B) permits issued by a

governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed 21 days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a) (i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15) (b) (ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age 18, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

(16) (a) The term "sale at retail" or "retail sale" includes the purchase or acquisition of tangible personal property and specified services by a person who receives either a qualifying grant exempt from tax under RCW 82.04.767 or 82.16.320 or a grant deductible under RCW 82.04.4339, except for transactions excluded from the definition of "sale at retail" or "retail sale" by any other provision of this section. Nothing in this subsection (16) may be construed to limit the application of any other provision of this section to purchases by a recipient of either a qualifying grant exempt from tax under RCW 82.04.767 or a grant deductible under RCW 82.04.4339, or by any other person.

(b) For purposes of this subsection (16), "specified services" means:

(i) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation;

(ii) The clearing of land or the moving of earth, whether or not associated with activities described in (b) (i) of this subsection (16);

(iii) The razing or moving of existing buildings or structures; and

(iv) Landscape maintenance and horticultural services. [2021 c 296 s 8; 2021 c 143 s 2; 2021 c 4 s 3; (2020 c 80 s 58 repealed by

2021 c 143 s 4); 2017 3rd sp.s. c 37 s 1201; 2015 3rd sp.s. c 6 s 1105; (2015 3rd sp.s. c 6 s 1104 expired January 1, 2016); 2015 c 169 s 1; 2013 2nd sp.s. c 13 s 802; 2011 c 174 s 202. Prior: 2010 c 112 s 14; 2010 c 111 s 201; 2010 c 106 s 202; prior: 2009 c 563 s 301; 2009 c 535 s 301; prior: 2007 c 54 s 4; 2007 c 6 s 1004; prior: 2005 c 515 s 2; 2005 c 514 s 101; prior: 2004 c 174 s 3; 2004 c 153 s 407; 2003 c 168 s 104; 2002 c 178 s 1; 2000 2nd sp.s. c 4 s 23; prior: 1998 c 332 s 2; 1998 c 315 s 1; 1998 c 308 s 1; 1998 c 275 s 1; 1997 c 127 s 1; prior: 1996 c 148 s 1; 1996 c 112 s 1; 1995 1st sp.s. c 12 s 2; 1995 c 39 s 2; 1993 sp.s. c 25 s 301; 1988 c 253 s 1; prior: 1987 c 285 s 1; 1987 c 23 s 2; 1986 c 231 s 1; 1983 2nd ex.s. c 3 s 25; 1981 c 144 s 3; 1975 1st ex.s. c 291 s 5; 1975 1st ex.s. c 90 s 1; 1973 1st ex.s. c 145 s 1; 1971 ex.s. c 299 s 3; 1971 ex.s. c 281 s 1; 1970 ex.s. c 8 s 1; prior: 1969 ex.s. c 262 s 30; 1969 ex.s. c 255 s 3; 1967 ex.s. c 149 s 4; 1965 ex.s. c 173 s 1; 1963 c 7 s 1; prior: 1961 ex.s. c 24 s 1; 1961 c 293 s 1; 1961 c 15 s 82.04.050; prior: 1959 ex.s. c 5 s 2; 1957 c 279 s 1; 1955 c 389 s 6; 1953 c 91 s 3; 1951 2nd ex.s. c 28 s 3; 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Reviser's note:** This section was amended by 2021 c 143 s 2 and by 2021 c 296 s 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Finding—Intent—Effective date—2021 c 296:** See notes following RCW 82.14.310.

**Automatic expiration date and tax preference performance statement exemption—Effective date—2021 c 143:** See notes following RCW 82.04.4339.

**Retroactive application—Automatic expiration date and tax preference performance statement exemption—Effective date—2021 c 4:** See notes following RCW 82.04.767.

**Intent—2020 c 80:** See note following RCW 18.71A.010.

**Tax preference performance statement and expiration—2017 3rd sp.s. c 37 s 1201:** "RCW 82.32.805 and 82.32.808 do not apply to this part." [2017 3rd sp.s. c 37 s 1202.]

**Expiration date—2015 3rd sp.s. c 6 s 1104:** "Section 1104 of this act expires January 1, 2016." [2015 3rd sp.s. c 6 s 2304.]

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Tax preference performance statement—Tax preference intended to be permanent—2015 3rd sp.s. c 6 ss 1102-1106:** See notes following RCW 82.04.330.

**Effective date—2015 c 169:** "This act takes effect January 1, 2016." [2015 c 169 s 14.]

**Intent—2013 2nd sp.s. c 13:** "It is the intent of part VIII of this act to provide a sales tax exemption for cover charges to patrons at establishments that provide the opportunity to dance. The intent is to provide tax relief to businesses who have been reporting the income for cover charges under the service and other classification, but not intending to avoid their tax obligation of collecting retail sales tax because of department and taxpayer confusion regarding the appropriate tax treatment of this income. To ensure proper tax reporting in the future by businesses who provide the opportunity to dance, the legislature intends to review the tax preference and its actual fiscal impact on state revenues to determine if the fiscal impact to state revenues reasonably conforms with the fiscal estimate in the fiscal note for this legislation." [2013 2nd sp.s. c 13 s 801.]

**Effective date—2013 2nd sp.s. c 13:** See note following RCW 82.04.43393.

**Retroactive application—2010 c 112:** See note following RCW 82.32.780.

**Purpose—2010 c 111:** "The 2009 legislature enacted Engrossed Substitute House Bill No. 2075 (chapter 535, Laws of 2009), an act relating to the excise taxation of certain products and services provided or furnished electronically. The bill took effect July 26, 2009.

Engrossed Substitute House Bill No. 2075, at eighty-five pages, was a comprehensive piece of legislation that made major changes to state and local sales and use taxes, as well as the state business and occupation tax. Moreover, Engrossed Substitute House Bill No. 2075 was a complex piece of legislation because of the intricate interrelationship between the sales tax and the business and occupation tax and also because the bill affects the taxation of products and services that involve technologies that are changing rapidly.

Because of the complexity and length of Engrossed Substitute House Bill No. 2075, it was the legislature's expectation that, in the course of implementing the bill, ambiguities and unintended consequences would be discovered, which, if not corrected, will unsettle expectations. Thus, the legislature further anticipated that it would need to consider legislation in the 2010 legislative session to address these issues.

Therefore, the purpose of this act is to clarify ambiguities, correct unintended consequences, restore expectations, and conform the law to the original intent of the legislature." [2010 c 111 s 101.]

**Retroactive application—2010 c 111:** "(1) Except as provided in subsection (2) of this section, this act applies both prospectively and retroactively to July 26, 2009.

(2) Sections 202, 402, and 502 of this act, and those provisions of sections 401 and 501 of this act that eliminate the sales and use tax exemptions in RCW 82.08.02082 and 82.12.02082, apply prospectively only." [2010 c 111 s 902.]

**Effective date—2010 c 111:** "This act takes effect July 1, 2010." [2010 c 111 s 903.]

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563:** See notes following RCW 82.32.780.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Severability—2007 c 54:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 54 s 32.]

**Part headings not law—Savings—Effective date—Severability—2007 c 6:** See notes following RCW 82.32.020.

**Findings—Intent—2007 c 6:** See note following RCW 82.14.390.

**Findings—2005 c 515:** "The legislature finds that:

(1) Public entities that receive tax dollars must continuously improve the way they operate and deliver service so citizens receive maximum value for their tax dollars; and

(2) An explicit statement clarifying that no sales or use tax shall apply to the entire charge paid by regional transit authorities for bus or rail combined operations and maintenance agreements that are provided to such authorities in support of their provision of urban transportation or transportation services is necessary to improve efficient service." [2005 c 515 s 1.]

**Effective date—2005 c 514:** See note following RCW 83.100.230.

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**Effective date—2004 c 174:** See note following RCW 82.04.2908.

**Retroactive effective date—Effective date—2004 c 153:** See note following RCW 82.08.0293.

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Retroactive application—Effective date—2002 c 178:** See notes following RCW 67.28.180.

**Findings—Construction—2000 2nd sp.s. c 4 ss 18-30:** See notes following RCW 81.112.300.

**Findings—Intent—Effective date—1998 c 332:** See notes following RCW 82.04.29001.

**Effective dates—1998 c 308:** "(1) Sections 1 through 4 of this act take effect July 1, 1998.

(2) Section 5 of this act takes effect July 1, 2003." [1998 c 308 s 6.]

**Effective date—1998 c 275:** "This act takes effect July 1, 1998."  
[1998 c 275 s 2.]

**Effective date—1997 c 127:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 127 s 2.]

**Severability—1996 c 148:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 148 s 7.]

**Effective date—1996 c 148:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1996." [1996 c 148 s 8.]

**Effective date—1996 c 112:** "This act shall take effect July 1, 1996." [1996 c 112 s 5.]

**Intent—1995 1st sp.s. c 12:** "It is the intent of the legislature that massage services be recognized as health care practitioners for the purposes of business and occupation tax application. To achieve this intent massage services are being removed from the definition of sale at retail and retail sale." [1995 1st sp.s. c 12 s 1.]

**Effective date—1995 1st sp.s. c 12:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 1st sp.s. c 12 s 5.]

**Effective date—1995 c 39:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 39 s 3.]

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Intent—Severability—Effective date—1981 c 144:** See notes following RCW 82.16.010.

**Application to preexisting contracts—1975 1st ex.s. c 291; 1975 1st ex.s. c 90:** See note following RCW 82.12.010.

**Effective dates—1975 1st ex.s. c 291:** "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing institutions, and shall take effect immediately: PROVIDED, That sections 8 and 26 through 43 of this amendatory act shall be effective on and after January 1, 1976: PROVIDED FURTHER, That sections 2, 3, and 4, and subsections (1) and (2) of section 24 shall

be effective on and after January 1, 1977: AND PROVIDED FURTHER, That subsections (3) through (15) of section 24 shall be effective on and after January 1, 1978." [1975 1st ex.s. c 291 s 46.]

**Severability—1975 1st ex.s. c 291:** "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 291 s 45.]

**Effective date—1975 1st ex.s. c 90:** "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 90 s 5.]

**Effective date—1973 1st ex.s. c 145:** "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1973." [1973 1st ex.s. c 145 s 2.]

**Effective dates—1971 ex.s. c 299:** "This 1971 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect as follows:

(1) Sections 1 through 12, 15 through 34 and 53 shall take effect July 1, 1971;

(2) Sections 13, 14, and 77 and 78 shall take effect June 1, 1971; and

(3) Sections 35 through 52 and 54 through 76 shall take effect as provided in section 53." [1971 ex.s. c 299 s 79.]

**Severability—1971 ex.s. c 299:** "If any phrase, clause, subsection or section of this 1971 amendatory act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this 1971 amendatory act without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid." [1971 ex.s. c 299 s 78.]

**Construction—Severability—1969 ex.s. c 255:** See notes following RCW 35.58.272.

**Effective date—1967 ex.s. c 149:** "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1967." [1967 ex.s. c 149 s 65.]

**Effective date—1965 ex.s. c 173:** "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1965." [1965 ex.s. c 173 s 33.]

*Credit for retail sales or use taxes paid to other jurisdictions with respect to property used: RCW 82.12.035.*

*"Services rendered in respect to" defined: RCW 82.04.051.*

**RCW 82.04.051 "Services rendered in respect to"—Taxation of hybrid or subsequent agreements.** (1) As used in RCW 82.04.050 and including for the purposes of the taxes imposed in chapter 82.08 RCW in addition to the taxes imposed in this chapter, the term "services rendered in respect to" means, in the context of constructing, building, repairing, improving, and decorating buildings or other structures, those services that are directly related to the constructing, building, repairing, improving, and decorating of buildings or other structures and that are performed by a person who is responsible for the performance of the constructing, building, repairing, improving, or decorating activity. The term does not include services such as engineering, architectural, surveying, flagging, accounting, legal, consulting, land development or management, or administrative services provided to the consumer of, or person responsible for performing, the constructing, building, repairing, improving, or decorating services.

(2) A contract or agreement under which a person is responsible for both services that would otherwise be subject to tax as a service under RCW 82.04.290(2) and also constructing, building, repairing, improving, or decorating activities that would otherwise be subject to tax under another section of this chapter is subject to the tax that applies to the predominant activity under the contract or agreement.

(3) Unless otherwise provided by law, a contract or agreement under which a person is responsible for activities that are subject to tax as a service under RCW 82.04.290(2), and a subsequent contract or agreement under which the same person is responsible for constructing, building, repairing, improving, or decorating activities subject to tax under another section of this chapter, shall not be combined and taxed as a single activity if at the time of the first contract or agreement it was not contemplated by the parties, as evidenced by the facts, that the same person would be awarded both contracts.

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

(a) "Land development or management" means site identification, zoning, permitting, and other preconstruction regulatory services provided to the consumer of the constructing, building, repairing, improving, or decorating services. This includes, but is not limited to, acting as an owner's representative during any design or construction period, including recommending a contractor, monitoring the budget and schedule, approving invoices, and interacting on the behalf of the consumer with the person who has control over the work itself or responsible for the performance of the work.

(b) "Responsible for the performance" means that the person is obligated to perform the activities, either personally or through a third party. A person who reviews work for a consumer, retailer, or wholesaler but does not supervise or direct the work is not responsible for the performance of the work. A person who is financially obligated for the work, such as a bank, but who does not have control over the work itself is not responsible for the performance of the work. [2021 c 145 s 4; 2020 c 109 s 2; 1999 c 212 s 2.]

**Finding—Intent—2020 c 109; 1999 c 212:** "(1) The legislature finds that the taxation of "services rendered in respect to constructing buildings or other structures" has generally included the entire transaction for construction, including certain services provided directly to the consumer or owner rather than the person engaged in the performance of the constructing activity. Changes in business practices and recent administrative and court decisions have confused the issue. Recognizing the need to remove barriers to the creation of affordable housing, it is the intent of the legislature to clarify which services, if standing alone and not part of the construction agreement, are taxed as retail or wholesale sales, and which services will continue to be taxed as a service.

(2) It is further the intent of the legislature to confirm that the entire price for the construction of a building or other structure for a consumer or owner continues to be a retail sale, even though some of the individual services reflected in the price, if provided alone, would be taxed as services and not as separate retail or wholesale sales.

(3) Therefore, the intent of this act is to maintain the application of the law and not to extend retail treatment to activities not previously treated as retail activities. Services that are otherwise subject to tax as a service under RCW 82.04.290(2), including but not limited to engineering, architectural, surveying, flagging, accounting, legal, consulting, or administrative services, remain subject to tax as a service under RCW 82.04.290(2), if the person responsible for the performance of those services is not also responsible for the performance of the constructing, building, repairing, improving, or decorating activities. Additionally, unless otherwise provided by law, a person entering into an agreement to be responsible for the performance of services otherwise subject to tax as a service under RCW 82.04.290(2), and subsequently entering into a separate agreement to be responsible for the performance of constructing, building, repairing, improving, or decorating activities, is subject to tax as a service under RCW 82.04.290(2) with respect to the first agreement, and is subject to tax under the appropriate section of chapter 82.04 RCW with respect to the second agreement, if at the time of the first agreement there was no contemplation by the parties, as evidenced by the facts, that the agreements would be awarded to the same person." [2020 c 109 s 1; 1999 c 212 s 1.]

**RCW 82.04.060 "Sale at wholesale," "wholesale sale." "Sale at wholesale" or "wholesale sale" means:**

- (1) Any sale, which is not a sale at retail, of:
- (a) Tangible personal property;
  - (b) Services defined as a retail sale in RCW 82.04.050(2) (a) or (g);
  - (c) Activities defined as a retail sale in RCW 82.04.050(15);
  - (d) Prewritten computer software;
  - (e) Services described in RCW 82.04.050(6) (c);
  - (f) Extended warranties as defined in RCW 82.04.050(7);
  - (g) Competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065; or
  - (h) Digital goods, digital codes, or digital automated services;

(2) Any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For the purposes of this subsection (2), "real or personal property" does not include any natural products named in RCW 82.04.100; and

(3) The sale of any service for resale, if the sale is excluded from the definition of "sale at retail" and "retail sale" in RCW 82.04.050(14). [2017 c 323 s 512; 2015 c 169 s 2; 2010 c 106 s 203; 2009 c 535 s 403; 2007 c 6 s 1007; 2005 c 514 s 102; 2002 c 367 s 1; 1998 c 332 s 5; 1996 c 148 s 3; 1983 2nd ex.s. c 3 s 26; 1961 c 15 s 82.04.060. Prior: 1955 ex.s. c 10 s 4; 1955 c 389 s 7; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Effective date—2015 c 169:** See note following RCW 82.04.050.

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Part headings not law—Savings—Effective date—Severability—2007 c 6:** See notes following RCW 82.32.020.

**Findings—Intent—2007 c 6:** See note following RCW 82.14.390.

**Effective date—2005 c 514:** See note following RCW 83.100.230.

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**Severability—2002 c 367:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 367 s 7.]

**Effective date—2002 c 367:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2002." [2002 c 367 s 8.]

**Findings—Intent—Effective date—1998 c 332:** See notes following RCW 82.04.29001.

**Severability—Effective date—1996 c 148:** See notes following RCW 82.04.050.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**RCW 82.04.062 "Sale at wholesale," "sale at retail" excludes sale of precious metal bullion and monetized bullion—Computation of tax.** (1) For purposes of this chapter, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail" do not include the sale of precious metal bullion or monetized bullion.

(2) In computing tax under this chapter on the business of making sales of precious metal bullion or monetized bullion, the tax shall be imposed on the amounts received as commissions upon transactions for the accounts of customers over and above the amount paid to other dealers associated in such transactions, but no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

(3) For purposes of this section, "precious metal bullion" means any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art. [1985 c 471 s 5.]

**Severability—Effective date—1985 c 471:** See notes following RCW 82.04.260.

**RCW 82.04.065 Telephone, telecommunications, and ancillary services—Definitions.** (1) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800," "855," "866," "877," and "888" toll-free calling, and any subsequent numbers designated by the federal communications commission.

(2) "900 service" means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for: Collection services provided by the seller of the telecommunications services to the subscriber, or services or products sold by the subscriber to the subscriber's customer. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the federal communications commission.

(3) "Ancillary services" means services that are associated with or incidental to the provision of "telecommunications services," including but not limited to "detailed telecommunications billing," "directory assistance," "vertical service," and "voice mail services."

(4) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in section 20.3, Title 47 C.F.R. as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, regardless of whether individual transmissions originate or terminate within the licensed service area of the mobile telecommunications service provider.

(5) "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

(6) "Conference-bridging service" means an ancillary service that links two or more participants of an audio or videoconference call and may include the provision of a telephone number. "Conference-bridging service" does not include the telecommunications services used to reach the conference bridge.

(7) "Customer" means: (a) The person or entity that contracts with the home service provider for mobile telecommunications services; or (b) the end user of the mobile telecommunications service, if the end user of mobile telecommunications services is not the contracting party, but this subsection (7)(b) applies only for the purpose of determining the place of primary use. The term does not include a reseller of mobile telecommunications service, or a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(8) "Designated database provider" means a person representing all the political subdivisions of the state that is:

(a) Responsible for providing an electronic database prescribed in 4 U.S.C. Sec. 119(a) if the state has not provided an electronic database; and

(b) Approved by municipal and county associations or leagues of the state whose responsibility it would otherwise be to provide a database prescribed by 4 U.S.C. Secs. 116 through 126.

(9) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(10) "Directory assistance" means an ancillary service of providing telephone number information, and/or address information.

(11) "Enhanced zip code" means a United States postal zip code of nine or more digits.

(12) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(13) "Home service provider" means the facilities-based carrier or reseller with whom the customer contracts for the provision of mobile telecommunications services.

(14) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(15) "Mobile telecommunications service" means commercial mobile radio service, as defined in section 20.3, Title 47 C.F.R. as in effect on June 1, 1999.

(16) "Mobile telecommunications service provider" means a home service provider or a serving carrier.

(17) "Mobile wireless service" means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and/or termination points of the transmission, conveyance, or routing are not fixed, including, by way of example only, telecommunications services that are provided by a commercial mobile radio service provider.

(18) "Paging service" means a telecommunications service that provides transmission of coded radio signals for the purpose of

activating specific pagers; these transmissions may include messages and/or sounds.

(19) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:

(a) The residential street address or the primary business street address of the customer; and

(b) Within the licensed service area of the home service provider.

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

(21) "Prepaid telephone calling service" means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

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

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

(24) "Reseller" means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service. "Reseller" does not include a serving carrier with whom a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(25) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

(26) "Taxing jurisdiction" means any of the several states, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

(27) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are

used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value added. "Telecommunications service" does not include:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including but not limited to directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include but are not limited to cable service as defined in 47 U.S.C. Sec. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in section 20.3, Title 47 C.F.R.;

(h) Ancillary services;

(i) Digital products delivered electronically, including but not limited to music, video, reading materials, or ring tones; or

(j) Software delivered electronically.

(28) "Value-added nonvoice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(29) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, that offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference-bridging services.

(30) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to use the voice mail service. [2009 c 535 s 413; 2007 c 6 s 1003; 2007 c 6 s 1002; 2002 c 67 s 2; 1997 c 304 s 5; 1983 2nd ex.s. c 3 s 24.]

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Part headings not law—Savings—Effective date—Severability—2007 c 6:** See notes following RCW 82.32.020.

**Findings—Intent—2007 c 6:** See note following RCW 82.14.390.

**\*Contingent effective date—2007 c 6 ss 1003, 1006, 1014, and 1018:** "Sections 1003, 1006, 1014, and 1018 of this act take effect the later of: The date chapter 67, Laws of 2002, becomes null and void; or July 1, 2008." [2007 c 6 s 1707.]

**\*Reviser's note:** 2002 C 67 s 18 was repealed by 2007 c 54 s 2 without cognizance of its amendment by 2007 c 6 s 1701. That section has been decodified for publication purposes under RCW 1.12.025.

**Finding—Effective date—2002 c 67:** See notes following RCW 82.04.530.

**Findings—Severability—Effective date—1997 c 304:** See notes following RCW 35.21.717.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

*License fees or taxes on telephone business by cities: RCW 35.21.712 through 35.21.715.*

*Sales tax exemption for certain telephone, telecommunications, and ancillary services: RCW 82.08.0289.*

**RCW 82.04.066 "Engaging within this state," "engaging within the state."** "Engaging within this state" and "engaging within the state," when used in connection with any apportionable activity as defined in RCW 82.04.460 or selling activity taxable under RCW 82.04.250(1), 82.04.257(1), 82.04.270, or other provision of this chapter means that a person generates gross income of the business from sources within this state, such as customers or intangible property located in this state, regardless of whether the person is physically present in this state. [2019 c 8 s 702; 2017 3rd sp.s. c 28 s 301; 2015 3rd sp.s. c 5 s 203; 2010 1st sp.s. c 23 s 103.]

**Effective date—2019 c 8 ss 102, 103, 107, and 701-703:** See note following RCW 82.04.067.

**Existing rights and liability—Retroactive application—2019 c 8:** See notes following RCW 82.02.250.

**Existing rights and liability—Severability—Application—Effective dates—2017 3rd sp.s. c 28:** See notes following RCW 82.08.0531.

**Construction—2017 c 323:** See note following RCW 82.08.052.

**Effective dates—Finding—Intent—2015 3rd sp.s. c 5:** See notes following RCW 82.08.052.

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**RCW 82.04.067 Substantial nexus—Engaging in business.** (1) A person engaging in business is deemed to have substantial nexus with this state if, in the current or immediately preceding calendar year, the person is:

- (a) An individual and is a resident or domiciliary of this state;
- (b) A business entity and is organized or commercially domiciled in this state; or
- (c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and the person had:
  - (i) More than one hundred thousand dollars of cumulative gross receipts from this state; or
  - (ii) Subject to the limitation in RCW 82.32.531, physical presence in this state, which need only be demonstrably more than a slightest presence.

(2) (a) Cumulative gross receipts counting toward the threshold in subsection (1) (c) (i) of this section include all of a person's gross income of the business attributed to this state. For purposes of this subsection, gross income of the business is attributed to this state as follows:

- (i) For apportionable income, all amounts included in the numerator of the receipts factor under RCW 82.04.462 and, in the case of financial institutions, all amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and
- (ii) For all other income, the gross income of the business allocated to this state in accordance with the sourcing provisions of RCW 82.32.730.

(b) For a marketplace facilitator, cumulative gross receipts counting toward the threshold in subsection (1) (c) (i) of this section include, in addition to the gross proceeds of its own sales, the cumulative gross proceeds from sales by all marketplace sellers through the marketplace facilitator's marketplace, including marketplace sellers that do not have a substantial nexus with this state under the provisions of this section.

(3) (a) For purposes of subsection (1) (c) (ii) of this section, a person is physically present in this state if the person has property or employees in this state.

(b) A person is also physically present in this state for the purposes of subsection (1) (c) (ii) of this section if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

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

- (a) "Apportionable income" has the same meaning as provided in RCW 82.04.460.
- (b) "Marketplace," "marketplace facilitator," and "marketplace seller" have the same meaning as provided in RCW 82.08.010.

(c) "Product" has the same meaning as provided in RCW 82.32.023. [2019 c 8 s 102; 2019 c 8 s 101; 2017 3rd sp.s. c 28 s 302; 2016 c 137 s 2; 2015 3rd sp.s. c 5 s 204; 2010 1st sp.s. c 23 s 104.]

**Effective date—2019 c 8 ss 102, 103, 107, and 701-703:** "Sections 102, 103, 107, 701, 702, and 703 of this act take effect January 1, 2020." [2019 c 8 s 806.]

**Effective date—2019 c 8 ss 101, 104, 106, 201, 402-405, and 501:** See note following RCW 82.02.250.

**Existing rights and liability—Retroactive application—2019 c 8:** See notes following RCW 82.02.250.

**Existing rights and liability—Severability—Application—Effective dates—2017 3rd sp.s. c 28:** See notes following RCW 82.08.0531.

**Construction—2017 c 323:** See note following RCW 82.08.052.

**Effective date—2016 c 137:** "This act takes effect July 1, 2016." [2016 c 137 s 4.]

**Effective dates—Finding—Intent—2015 3rd sp.s. c 5:** See notes following RCW 82.08.052.

**Contingency—2010 1st sp.s. c 23 ss 102-112:** "If a court of competent jurisdiction, in a final judgment not subject to appeal, adjudges any provision of section 104(1)(c) of this act unconstitutional or otherwise invalid, Part I of this act is null and void in its entirety." [2010 1st sp.s. c 23 s 1701.]

**Application—2010 1st sp.s. c 23 ss 102-112:** "Part I of this act applies with respect to gross income of the business, as defined in RCW 82.04.080, including gross income from royalties as defined in RCW 82.04.2907, generated on and after June 1, 2010. For purposes of calculating the thresholds in section 104(1)(c) of this act for the 2010 tax year, property, payroll, and receipts are based on the entire 2010 tax year." [2010 1st sp.s. c 23 s 1702.]

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.070 "Gross proceeds of sales."** "Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services, and/or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses. [2009 c 535 s 404; 1961 c 15 s 82.04.070. Prior: 1955 c 389 s 8; prior: 1949 c 228 s 2, part; 1945 c

249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**RCW 82.04.080 "Gross income of the business."** (1) "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(2) Financial institutions must determine gains realized from trading in stocks, bonds, and other evidences of indebtedness on a net annualized basis. For purposes of this subsection, a financial institution means a person within the scope of the rule adopted by the department under the authority of RCW 82.04.460(2). [2010 1st sp.s. c 23 s 109; 1961 c 15 s 82.04.080. Prior: 1955 c 389 s 9; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.090 "Value proceeding or accruing."** "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. However, persons operating grain warehouses licensed under chapter 22.09 RCW may elect to report the value proceeding or accruing from grain warehouse operations on either a cash receipts or accrual basis. The department of revenue may provide by regulation that the value proceeding or accruing from sales on the installment plan under conditional contracts of sale may be reported as of the dates when the payments become due. [2001 c 20 s 1; 1975 1st ex.s. c 278 s 40; 1961 c 15 s 82.04.090. Prior: 1955 c 389 s 10; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Effective date—2001 c 20:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 20 s 2.]

**Construction—Severability—1975 1st ex.s. c 278:** See notes following RCW 11.08.160.

**RCW 82.04.100 "Extractor."** "Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees other than plantation Christmas trees, or other natural products, or takes fish, shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; persons meeting the definition of farmer under RCW 82.04.213; or persons producing cannabis. [2022 c 16 s 138; 2014 c 140 s 1; 2001 c 118 s 1; 1987 c 23 s 3; 1985 c 148 s 2; 1965 ex.s. c 173 s 2; 1961 c 15 s 82.04.100. Prior: 1955 c 389 s 11; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Effective date—1965 ex.s. c 173:** See note following RCW 82.04.050.

*Withdrawal of gas from underground reservoir not deemed taking or producing under RCW 82.04.100: RCW 80.40.010.*

**RCW 82.04.110 "Manufacturer."** (1) Except as otherwise provided in this section, "manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his or her own materials or ingredients any articles, substances, or commodities.

(2)(a) When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, all or a portion of the materials that become a part or whole of the manufactured article, the department shall prescribe equitable rules for determining tax liability.

(b) A person who produces aluminum master alloys is a processor for hire rather than a manufacturer, regardless of the portion of the aluminum provided by that person's customer. For the purposes of this subsection (2)(b), "aluminum master alloy" means an alloy registered with the aluminum association as a grain refiner or a hardener alloy using the American national standards institute designating system H35.3.

(3) A nonresident of this state who is the owner of materials processed for it in this state by a processor for hire shall not be deemed to be engaged in business in this state as a manufacturer because of the performance of such processing work for it in this state.

(4) The owner of materials from which a nuclear fuel assembly is made for it by a processor for hire shall not be subject to tax under this chapter as a manufacturer of the fuel assembly.

(5) For purposes of this section, the terms "articles," "substances," "materials," "ingredients," and "commodities" do not include digital goods. [2009 c 535 s 405; 1997 c 453 s 1; 1971 ex.s. c 186 s 1; 1961 c 15 s 82.04.110. Prior: 1955 c 389 s 12; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Effective date—1997 c 453:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 453 s 2.]

**Effective date—1971 ex.s. c 186:** "The effective date of this 1971 amendatory act is July 1, 1971." [1971 ex.s. c 186 s 5.]

**RCW 82.04.120 "To manufacture."** (1) "To manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and includes:

(a) The production or fabrication of special made or custom made articles;

(b) The production or fabrication of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;

(c) Cutting, delimiting, and measuring of felled, cut, or taken trees;

(d) Crushing and/or blending of rock, sand, stone, gravel, or ore;

(e) The production of compressed natural gas or liquefied natural gas for use as a transportation fuel as defined in RCW 82.16.310; and

(f) The production or processing of renewable natural gas.

(2) "To manufacture" does not include:

(a) Conditioning of seed for use in planting; cubing hay or alfalfa;

(b) Activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen, or canned outside this state;

(c) The growing, harvesting, or producing of agricultural products;

(d) Packing of agricultural products, including sorting, washing, rinsing, grading, waxing, treating with fungicide, packaging, chilling, or placing in controlled atmospheric storage;

(e) The production of digital goods;

(f) The production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser; and

(g) Except as provided in subsection (1)(e) of this section, any activity that is integral to any public service business as defined in RCW 82.16.010 and with respect to which the gross income associated with such activity: (i) Is subject to tax under chapter 82.16 RCW; or (ii) would be subject to tax under chapter 82.16 RCW if such activity were conducted in this state or if not for an exemption or deduction.

(3) With respect to wastewater treatment facilities:

(a) "To manufacture" does not include the treatment of wastewater, the production of reclaimed water, and the production of class B biosolids; and

(b) "To manufacture" does include the production of class A or exceptional quality biosolids, but only with respect to the processing activities that occur after the biosolids have reached class B standards. [2019 c 202 s 3; 2014 c 216 s 303; 2011 c 23 s 3; 2009 c 535 s 406; 2003 c 168 s 604; 1999 sp.s. c 9 s 1; 1999 c 211 s 2; 1998 c 168 s 1; 1997 c 384 s 1; 1989 c 302 s 201. Prior: 1989 c 302 s 101; 1987 c 493 s 1; 1982 2nd ex.s. c 9 s 2; 1975 1st ex.s. c 291 s 6; 1965 ex.s. c 173 s 3; 1961 c 15 s 82.04.120; prior: 1959 ex.s. c 3 s 2; 1955 c 389 s 13; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Automatic expiration date and tax preference performance statement exemption—2019 c 202:** See note following RCW 82.16.310.

**Effective date—Findings—Tax preference performance statement—2014 c 216:** See notes following RCW 82.38.030.

**Findings—Application—2011 c 23:** See notes following RCW 82.08.02565.

**Effective date—Construction—2011 c 23:** See notes following RCW 82.08.025651.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Intent—1999 sp.s. c 9:** "This act is intended to clarify that this is the intent of the legislature both retroactively and prospectively." [1999 sp.s. c 9 s 4.]

**Severability—1999 sp.s. c 9:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 sp.s. c 9 s 5.]

**Effective date—1999 sp.s. c 9:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 7, 1999]." [1999 sp.s. c 9 s 6.]

**Intent—1999 c 211 ss 2 and 3:** "The legislature intends that sections 2 and 3 of this act be clarifying in nature and are retroactive in response to the administrative difficulties encountered in implementing the original legislation." [1999 c 211 s 4.]

**Effective date—1999 c 211 ss 1-4:** "Sections 1 through 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 7, 1999]." [1999 c 211 s 7.]

**Finding—Intent—1999 c 211:** See note following RCW 82.08.02565.

**Effective date—1998 c 168:** "This act takes effect October 1, 1998." [1998 c 168 s 4.]

**Effective date—1997 c 384:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 384 s 3.]

**Finding—Purpose—1989 c 302:** "(1) The legislature finds that chapter 9, Laws of 1982 2nd ex. sess. was intended to extend state public utility taxation to electrical energy generated in this state for eventual distribution outside this state. The legislature further finds that chapter 9, Laws of 1982 2nd ex. sess. was held unconstitutional by the Thurston county superior court in *Washington Water Power v. State of Washington* (memorandum opinion No. 83-2-00977-1). The purpose of \*Part I of this act is to recognize the effect of that decision by correcting the relevant RCW sections to read as though the legislature had not enacted chapter 9, Laws of 1982 2nd ex. sess., and thereby make clear the effect of subsequent amendments in \*Part II of this act.

(2) The purpose of \*Part II of this act is to provide a constitutional means of replacing the revenue lost as a result of the Washington Water Power decision." [1989 c 302 s 1.]

**\*Reviser's note:** For "Part" division see 1989 c 302.

**Effective date—1982 2nd ex.s. c 9:** See note following RCW 82.16.010.

**Effective dates—Severability—1975 1st ex.s. c 291:** See notes following RCW 82.04.050.

**RCW 82.04.130 "Commercial or industrial use."** "Commercial or industrial use" means the following uses of products, including by-products, by the extractor or manufacturer thereof:

(1) Any use as a consumer; and

(2) The manufacturing of articles, substances or commodities. [1967 ex.s. c 149 s 5; 1961 c 15 s 82.04.130. Prior: 1955 c 389 s 14; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**RCW 82.04.140 "Business."** "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly. [1961 c 15 s 82.04.140. Prior: 1955 c 389 s 15; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**RCW 82.04.150 "Engaging in business."** "Engaging in business" means commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business. [1961 c 15 s 82.04.150. Prior: 1955 c 389 s 16; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**RCW 82.04.160 "Cash discount."** "Cash discount" means a deduction from the invoice price of goods or charge for services which is allowed if the bill is paid on or before a specified date. [1961 c 15 s 82.04.160. Prior: 1955 c 389 s 17; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**RCW 82.04.170 "Tuition fee."** "Tuition fee" includes library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution. "Educational institution," as used in this section, means only those institutions created or generally accredited as such by the state and includes educational programs that such educational institution cosponsors with a nonprofit organization, as defined by the internal revenue code Sec. 501(c)(3), if such educational institution grants college credit for coursework successfully completed through the educational program, or an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW, and in accordance with RCW 82.04.4332 or defined as a degree-granting institution under RCW 28B.85.010(3) and accredited by an accrediting association recognized by the United States secretary of education, and offering to students an educational program of a general academic nature or those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry, and agriculture, but not including specialty schools, business colleges, other trade schools, or similar institutions. [1993 sp.s. c

18 s 37; 1993 c 181 s 13; 1992 c 206 s 1; 1985 c 135 s 1; 1961 c 15 s 82.04.170. Prior: 1955 c 389 s 18; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Reviser's note:** This section was amended by 1993 c 181 s 13 and by 1993 sp.s. c 18 s 37, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—1993 sp.s. c 18:** See note following RCW 28B.12.060.

**Effective dates—1992 c 206:** "This act shall take effect July 1, 1992, except sections 7 and 8 of this act which shall take effect January 1, 1993, and sections 9 through 12 of this act which are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 1, 1992." [1992 c 206 s 16.]

**RCW 82.04.180 "Successor."** (1) "Successor" means:

(a) Any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, more than fifty percent of the fair market value of either the (i) tangible assets or (ii) intangible assets of the taxpayer; or

(b) A surviving corporation of a statutory merger.

(2) Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor. [2003 1st sp.s. c 13 s 11; 1985 c 414 s 6; 1961 c 15 s 82.04.180. Prior: 1955 c 389 s 19; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Effective dates—2003 1st sp.s. c 13:** See note following RCW 82.32.045.

**RCW 82.04.190 "Consumer."** "Consumer" means the following:

(1) Except as provided otherwise in this section, any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:

(a) Resale as tangible personal property in the regular course of business;

(b) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;

(c) Consuming such property in producing for sale as a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(d) Consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2) (a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who makes a purchase meeting the definition of "sale at retail" and "retail sale" under RCW 82.04.050(15), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user of software. For purposes of this subsection (2) (f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6) (c) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right-of-way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for

public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition may be construed to modify any other definition of "consumer";

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

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section may be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of possession of tangible personal property that, under the terms of an extended warranty as defined in RCW 82.04.050(7), has been repaired or is replacement property, but only with respect to the sale of or charge made for the repairing of the tangible personal property or the replacement property;

(10) Any person who purchases, acquires, or uses services described in RCW 82.04.050(6)(c) other than:

(a) For resale in the regular course of business; or

(b) For purposes of consuming the service described in RCW 82.04.050(6)(c) in producing for sale a new product, but only if such service becomes a component of the new product. For purposes of this subsection (10), "product" means a digital product, an article of tangible personal property, or the service described in RCW 82.04.050(6)(c);

(11) (a) Any end user of a digital product or digital code. "Consumer" does not include any person who is not an end user of a digital product or a digital code and purchases, acquires, owns, holds, or uses any digital product or digital code for purposes of consuming the digital product or digital code in producing for sale a new product, but only if the digital product or digital code becomes a component of the new product. A digital code becomes a component of a new product if the digital good or digital automated service acquired through the use of the digital code becomes incorporated into a new product. For purposes of this subsection, "product" has the same meaning as in subsection (10) of this section.

(b) (i) For purposes of this subsection, "end user" means any taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives by contract a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to others. A person that purchases digital products or digital codes for the purpose of giving away such products or codes will not be considered to have engaged in the distribution or redistribution of such products or codes and will be treated as an end user;

(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates;

(12) Any person who provides services described in RCW 82.04.050(9). Any such person is a consumer with respect to the purchase, acquisition, or use of the tangible personal property that the person provides along with an operator in rendering services defined as a retail sale in RCW 82.04.050(9). Any such person may also be a consumer under other provisions of this section;

(13) Any person who purchases, acquires, owns, holds, or uses chemical sprays or washes for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, or who purchases feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials, is not a consumer of such items, but only to the extent that the items:

(a) Are used in relation to the person's participation in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, the wildlife habitat incentives program, or their successors administered by the United States department of agriculture;

(b) Are for use by a farmer for the purpose of producing for sale any agricultural product; or

(c) Are for use by a farmer to produce or improve wildlife habitat on land the farmer owns or leases while acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec.

501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife;

(14) A regional transit authority is not a consumer with respect to labor, services, or tangible personal property purchased pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a transit agency, as defined in RCW 81.104.015, performs the labor or services; and

(15) The term "consumer" does not include:

(a) An animal rescue organization with respect to animals under its care and control; and

(b) Any person with respect to an animal adopted by that person from an animal rescue organization. [2017 c 323 s 513; 2017 c 323 s 202; 2015 c 169 s 3; 2014 c 97 s 302. Prior: 2010 c 111 s 202; 2010 c 106 s 204; 2009 c 535 s 302; 2007 c 6 s 1008; 2005 c 514 s 103; prior: 2004 c 174 s 4; 2004 c 2 s 8; 2002 c 367 s 2; prior: 1998 c 332 s 6; 1998 c 308 s 2; prior: 1996 c 173 s 2; 1996 c 148 s 4; 1996 c 112 s 2; 1995 1st sp.s. c 3 s 4; 1986 c 231 s 2; 1985 c 134 s 1; 1983 2nd ex.s. c 3 s 27; 1975 1st ex.s. c 90 s 2; 1971 ex.s. c 299 s 4; 1969 ex.s. c 255 s 4; 1967 ex.s. c 149 s 6; 1965 ex.s. c 173 s 4; 1961 c 15 s 82.04.190; prior: 1959 ex.s. c 3 s 3; 1957 c 279 s 2; 1955 c 389 s 20; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**Reviser's note:** This section was amended by 2017 c 323 s 202 and by 2017 c 323 s 513, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Application—2017 c 323 ss 201 and 202:** See note following RCW 82.04.040.

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Effective date—2015 c 169:** See note following RCW 82.04.050.

**Purpose—Retroactive application—Effective date—2010 c 111:** See notes following RCW 82.04.050.

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Part headings not law—Savings—Effective date—Severability—2007 c 6:** See notes following RCW 82.32.020.

**Findings—Intent—2007 c 6:** See note following RCW 82.14.390.

**Effective date—2005 c 514:** See note following RCW 83.100.230.

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**Effective date—2004 c 174:** See note following RCW 82.04.2908.

**Severability—Effective date—2002 c 367:** See notes following RCW 82.04.060.

**Findings—Intent—Effective date—1998 c 332:** See notes following RCW 82.04.29001.

**Effective dates—1998 c 308:** See note following RCW 82.04.050.

**Findings—Intent—1996 c 173:** See note following RCW 82.08.02565.

**Severability—Effective date—1996 c 148:** See notes following RCW 82.04.050.

**Effective date—1996 c 112:** See note following RCW 82.04.050.

**Findings—Effective date—1995 1st sp.s. c 3:** See notes following RCW 82.08.02565.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Application to preexisting contracts—1975 1st ex.s. c 90:** See note following RCW 82.12.010.

**Effective date—1975 1st ex.s. c 90:** See note following RCW 82.04.050.

**Effective dates—Severability—1971 ex.s. c 299:** See notes following RCW 82.04.050.

**Construction—Severability—1969 ex.s. c 255:** See notes following RCW 35.58.272.

**RCW 82.04.192 Digital products definitions.** (1) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones.

(2) "Digital audiovisual works" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(3) (a) "Digital automated service," except as provided in (b) of this subsection (3), means any service transferred electronically that uses one or more software applications.

(b) "Digital automated service" does not include:

(i) Any service that primarily involves the application of human effort by the seller, and the human effort originated after the customer requested the service;

(ii) The loaning or transferring of money or the purchase, sale, or transfer of financial instruments. For purposes of this subsection (3) (b) (ii), "financial instruments" include cash, accounts receivable and payable, loans and notes receivable and payable, debt securities, equity securities, as well as derivative contracts such as forward contracts, swap contracts, and options;

(iii) Dispensing cash or other physical items from a machine;

- (iv) Payment processing services;
- (v) Parimutuel wagering and handicapping contests as authorized by chapter 67.16 RCW;
- (vi) Telecommunications services and ancillary services as those terms are defined in RCW 82.04.065;
- (vii) The internet and internet access as those terms are defined in RCW 82.04.297;
- (viii) The service described in RCW 82.04.050(6)(c);
- (ix) Online educational programs provided by a:
  - (A) Public or private elementary or secondary school; or
  - (B) An institution of higher education as defined in sections 1001 or 1002 of the federal higher education act of 1965 (Title 20 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For purposes of this subsection (3)(b)(ix)(B), an online educational program must be encompassed within the institution's accreditation;
- (x) Live presentations, such as lectures, seminars, workshops, or courses, where participants are connected to other participants via the internet or telecommunications equipment, which allows audience members and the presenter or instructor to give, receive, and discuss information with each other in real time;
- (xi) Travel agent services, including online travel services, and automated systems used by travel agents to book reservations;
- (xii)(A) A service that allows the person receiving the service to make online sales of products or services, digital or otherwise, using either: (I) The service provider's website; or (II) the service recipient's website, but only when the service provider's technology is used in creating or hosting the service recipient's website or is used in processing orders from customers using the service recipient's website.
  - (B) The service described in this subsection (3)(b)(xii) does not include the underlying sale of the products or services, digital or otherwise, by the person receiving the service;
- (xiii) Advertising services. For purposes of this subsection (3)(b)(xiii), "advertising services" means all services directly related to the creation, preparation, production, or the dissemination of advertisements. Advertising services include layout, art direction, graphic design, mechanical preparation, production supervision, placement, and rendering advice to a client concerning the best methods of advertising that client's products or services. Advertising services also include online referrals, search engine marketing and lead generation optimization, web campaign planning, the acquisition of advertising space in the internet media, and the monitoring and evaluation of website traffic for purposes of determining the effectiveness of an advertising campaign. Advertising services do not include web hosting services and domain name registration;
- (xiv) The mere storage of digital products, digital codes, computer software, or master copies of software. This exclusion from the definition of digital automated services includes providing space on a server for web hosting or the backing up of data or other information;
- (xv) Data processing services. For purposes of this subsection (3)(b)(xv), "data processing service" means a primarily automated service provided to a business or other organization where the primary object of the service is the systematic performance of operations by the service provider on data supplied in whole or in part by the customer to extract the required information in an appropriate form or to convert the data to usable information. Data processing services

include check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities. Data processing does not include the service described in RCW 82.04.050(6)(c); and

(xvi) Digital goods.

(4) "Digital books" means works that are generally recognized in the ordinary and usual sense as books.

(5) "Digital code" means a code that provides a purchaser with the right to obtain one or more digital products, if all of the digital products to be obtained through the use of the code have the same sales and use tax treatment. "Digital code" does not include a code that represents a stored monetary value that is deducted from a total as it is used by the purchaser. "Digital code" also does not include a code that represents a redeemable card, gift card, or gift certificate that entitles the holder to select digital products of an indicated cash value. A digital code may be obtained by any means, including email or by tangible means regardless of its designation as song code, video code, book code, or some other term.

(6)(a) "Digital goods," except as provided in (b) of this subsection (6), means sounds, images, data, facts, or information, or any combination thereof, transferred electronically, including, but not limited to, specified digital products and other products transferred electronically not included within the definition of specified digital products.

(b) The term "digital goods" does not include:

(i) Telecommunications services and ancillary services as those terms are defined in RCW 82.04.065;

(ii) Computer software as defined in RCW 82.04.215;

(iii) The internet and internet access as those terms are defined in RCW 82.04.297;

(iv)(A) Except as provided in (b)(iv)(B) of this subsection (6), the representation of a personal or professional service in electronic form, such as an electronic copy of an engineering report prepared by an engineer, where the service primarily involves the application of human effort by the service provider, and the human effort originated after the customer requested the service.

(B) The exclusion in (b)(iv)(A) of this subsection (6) does not apply to photographers in respect to amounts received for the taking of photographs that are transferred electronically to the customer, but only if the customer is an end user, as defined in RCW 82.04.190(11), of the photographs. Such amounts are considered to be for the sale of digital goods; and

(v) Services and activities excluded from the definition of digital automated services in subsection (3)(b)(i) through (xv) of this section and not otherwise described in (b)(i) through (iv) of this subsection (6).

(7) "Digital products" means digital goods and digital automated services.

(8) "Electronically transferred" or "transferred electronically" means obtained by the purchaser by means other than tangible storage media. It is not necessary that a copy of the product be physically transferred to the purchaser. So long as the purchaser may access the product, it will be considered to have been electronically transferred to the purchaser.

(9) "Specified digital products" means electronically transferred digital audiovisual works, digital audio works, and digital books.

(10) "Subscription radio services" means the sale of audio programming by a radio broadcaster as defined in RCW 82.08.0208, except as otherwise provided in this subsection. "Subscription radio services" does not include audio programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service.

(11) "Subscription television services" means the sale of video programming by a television broadcaster as defined in RCW 82.08.0208, except as otherwise provided in this subsection. "Subscription television services" does not include video programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service, but only if the seller is not subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived from the sale. [2020 c 139 s 4; 2017 c 323 s 514; 2010 c 111 s 203; 2009 c 535 s 201.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Purpose—Retroactive application—Effective date—2010 c 111:** See notes following RCW 82.04.050.

**Intent—2009 c 535:** "(1) In 2007, the legislature directed the department of revenue (department) to conduct a study of the taxation of electronically delivered products (digital products). In conducting the study, the department was assisted by a committee comprised of legislators, academics, and individuals representing different segments of government and industry (the "study committee").

(2) At the conclusion of the study, the department issued its final report December 5, 2008. The final report noted that any recommendations to the legislature should promote the following goals: (a) Simplicity and fairness; (b) conformity with the streamlined sales and use tax agreement; (c) neutrality regardless of industry, content, and delivery method while taking the purchaser's underlying property rights into account; (d) consideration given to the revenue impact of potential changes to the tax base; (e) consideration given to the impact caused by the pyramiding of business inputs; (f) maintaining or enhancing the competitiveness of businesses located in Washington; and (g) maintaining certainty, consistency, durability, and equity despite changes in technology and business models.

(3) While the department's final report did not contain recommendations for the legislature, the report's conclusion notes that the study committee found that legislation implementing digital products tax policy is necessary in 2009 to: (a) Protect the sales and use tax base; (b) establish certainty in our tax code; (c) maintain conformity with the streamlined sales and use tax agreement; and (d) encourage economic development.

(4) This act is the outgrowth of the work of the department and the study committee. The purpose of this act is to implement those findings of the study committee noted in subsection (3) of this section. This act also takes into account the goals noted in subsection (2) of this section. Moreover, this act contains specific provisions to: (a) Provide protections for taxpayers who failed to pay or collect tax on digital products for periods before July 26, 2009;

and (b) promote the location of server farms and data centers in this state by preventing the department from considering a person's ownership of, or rights in, digital goods or digital codes residing on servers located in this state in determining whether the person has nexus with this state for purposes of the taxes imposed in Title 82 RCW." [2009 c 535 s 101.]

**Construction—2009 c 535:** "This act does not have any impact whatsoever on the characterization of digital goods and digital codes as tangible or intangible personal property for purposes of property taxation and may not be used in any way in construing any provision of Title 84 RCW." [2009 c 535 s 1201.]

**Construction—2009 c 535:** "The repeals in sections 515 and 623 of this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed or under any rule or order adopted under those statutes nor do they affect any proceedings instituted under them." [2009 c 535 s 1203.]

**RCW 82.04.200 "In this state," "within this state."** "In this state" or "within this state" includes all federal areas lying within the exterior boundaries of the state. [1961 c 15 s 82.04.200. Prior: 1955 c 389 s 21; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**RCW 82.04.210 "By-product."** "By-product" means any additional product, other than the principal or intended product, which results from extracting or manufacturing activities and which has a market value, without regard to whether or not such additional product was an expected or intended result of the extracting or manufacturing activities. [1961 c 15 s 82.04.210. Prior: 1955 c 389 s 22; prior: 1949 c 228 s 2, part; 1945 c 249 s 1, part; 1943 c 156 s 2, part; 1941 c 178 s 2, part; 1939 c 225 s 2, part; 1937 c 227 s 2, part; 1935 c 180 s 5, part; Rem. Supp. 1949 s 8370-5, part.]

**RCW 82.04.212 "Retail store or outlet."** "Retail store or outlet" does not mean a device or apparatus through which sales are activated by coin deposits but the phrase shall include automats or business establishments retailing diversified goods primarily through the use of such devices or apparatus. [1961 c 15 s 82.04.212. Prior: 1959 c 232 s 1.]

**RCW 82.04.213 "Agricultural product," "farmer," "cannabis."** (1) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short-rotation hardwoods as defined in RCW 84.33.035; turf; or any animal including but not limited to an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, or a bird, or

insect, or the substances obtained from such an animal including honey bee products. "Agricultural product" does not include cannabis, useable cannabis, or cannabis-infused products, or animals defined as pet animals under RCW 16.70.020.

(2) "Cannabis," "useable cannabis," and "cannabis-infused products" have the same meaning as in RCW 69.50.101.

(3) (a) "Farmer" means any person engaged in the business of growing, raising, or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product to be sold, and the growing, raising, or producing honey bee products for sale, or providing bee pollination services, by an eligible apiarist. "Farmer" does not include a person growing, raising, or producing such products for the person's own consumption; a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard or a slaughter or packing house; or a person in respect to the business of taking, cultivating, or raising timber.

(b) "Eligible apiarist" means a person who owns or keeps one or more bee colonies and who grows, raises, or produces honey bee products for sale at wholesale and is registered under RCW 15.60.021.

(c) "Honey bee products" means queen honey bees, packaged honey bees, honey, pollen, bees wax, propolis, or other substances obtained from honey bees. "Honey bee products" does not include manufactured substances or articles.

(4) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to cannabis, useable cannabis, or cannabis-infused products unless the applicable term is explicitly defined to include cannabis, useable cannabis, or cannabis-infused products. [2022 c 16 s 139; 2015 3rd sp.s. c 6 s 1102; 2014 c 140 s 2. Prior: 2001 c 118 s 2; 2001 c 97 s 3; 1993 sp.s. c 25 s 302.]

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Tax preference performance statement—Tax preference intended to be permanent—2015 3rd sp.s. c 6 ss 1102-1106:** See notes following RCW 82.04.330.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**RCW 82.04.214 "Newspaper."** (1) "Newspaper" means:

(a) A publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper; and

(b) An electronic version of a printed newspaper that:

(i) Shares content with the printed newspaper; and

(ii) Is prominently identified by the same name as the printed newspaper or otherwise conspicuously indicates that it is a complement to the printed newspaper.

(2) For purposes of this section, "supplement" means a printed publication, including a magazine or advertising section, that is:

(a) Labeled and identified as part of the printed newspaper; and  
(b) Circulated or distributed:

(i) As an insert or attachment to the printed newspaper; or

(ii) Separate and apart from the printed newspaper so long as the distribution is within the general circulation area of the newspaper. [2012 2nd sp.s. c 6 s 601; 2008 c 273 s 1; 1994 c 22 s 1; 1993 sp.s. c 25 s 304.]

**Reviser's note:** The effective date of section 603, chapter 6, Laws of 2015 3rd sp.s., that amended section 704, chapter 6, Laws of 2012 2nd sp.s. and removed the expiration date of section 601, chapter 6, Laws of 2012 2nd sp.s., takes effect September 1, 2015. See also effective date note following RCW 82.04.4266 for chapter 6, Laws of 2015 3rd sp.s.

**Findings—Intent—Tax preference performance statement:** See note following RCW 82.04.260 for section 602, chapter 6, Laws of 2015 3rd sp.s.

**Existing rights, liabilities, or obligations—Effective dates—Contingent effective dates—2012 2nd sp.s. c 6:** See notes following RCW 82.04.29005.

**Effective date—2008 c 273:** "This act takes effect July 1, 2008." [2008 c 273 s 2.]

**Retroactive application—1994 c 22:** "This act shall apply retroactively to July 1, 1993." [1994 c 22 s 2.]

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**RCW 82.04.215 "Computer," "computer software," "custom software," "customization of prewritten computer software," "master copies," "prewritten computer software," "retained rights." (1)** "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. All software is classified as either prewritten or custom. Consistent with this definition "computer software" includes only those sets of coded instructions intended for use by an end user and specifically excludes retained rights in software and master copies of software.

(3) "Custom software" means software created for a single person.

(4) "Customization of prewritten computer software" means any alteration, modification, or development of applications using or incorporating prewritten computer software for a specific person. "Customization of prewritten computer software" includes individualized configuration of software to work with other software

and computer hardware but does not include routine installation. Customization of prewritten computer software does not change the underlying character or taxability of the original prewritten computer software.

(5) "Master copies" of software means copies of software from which a software developer, author, inventor, publisher, licensor, sublicensor, or distributor makes copies for sale or license.

(6) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than such purchaser. Where a person modifies or enhances computer software of which such person is not the author or creator, the person shall be deemed to be the author or creator only of the person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; however where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(7) "Retained rights" means any and all rights, including intellectual property rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned or are held under contract or license by a software developer, author, inventor, publisher, licensor, sublicensor, or distributor. [2003 c 168 s 601; 1998 c 332 s 3.]

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Findings—Intent—Effective date—1998 c 332:** See notes following RCW 82.04.29001.

**RCW 82.04.216 Exclusion of steam, electricity, or electrical energy from definition of certain terms.** Consistent with RCW 82.02.220, when the terms "tangible personal property," "ingredient," "component part," "incorporated into," "goods," "products," "by-products," "materials," "consumables," and other similar terms denoting tangible items that may be used, sold, or consumed are used in this chapter, the terms do not include steam, electricity, or electrical energy. [2003 c 168 s 702.]

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**RCW 82.04.217 "Direct service industrial customer," "aluminum smelter."** (1) "Direct service industrial customer" means the same as in RCW 82.16.0495.

(2) "Aluminum smelter" means the manufacturing facility of any direct service industrial customer that processes alumina into aluminum. [2004 c 24 s 2.]

**Intent—Effective date—2004 c 24:** See notes following RCW 82.04.2909.

**RCW 82.04.220 Business and occupation tax imposed.** (1) There is levied and collected from every person that has a substantial nexus with this state, as provided in RCW 82.04.067, a tax for the act or privilege of engaging in business activities. The tax is measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be.

(2) (a) A person who establishes or reestablishes a substantial nexus with this state after the first day of the current calendar year under the provisions of RCW 82.04.067 is subject to the tax imposed under this chapter for the current calendar year only on business activity occurring on and after the date that the person established or reestablished a substantial nexus with this state in the current calendar year.

(b) The provisions of (a) of this subsection do not apply to a person who met any of the criteria in RCW 82.04.067(1) (a) through (c) during the immediately preceding calendar year, and such person is taxable under this chapter for the current calendar year in its entirety. [2021 c 145 s 5; 2019 c 8 s 103; 2017 3rd sp.s. c 28 s 303; 2011 1st sp.s. c 20 s 101; 2010 1st sp.s. c 23 s 102; 1961 c 15 s 82.04.220. Prior: 1955 c 389 s 42; prior: 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Effective date—2019 c 8 ss 102, 103, 107, and 701-703:** See note following RCW 82.04.067.

**Existing rights and liability—Retroactive application—2019 c 8:** See notes following RCW 82.02.250.

**Existing rights and liability—Severability—Application—Effective dates—2017 3rd sp.s. c 28:** See notes following RCW 82.08.0531.

**Intent—2010 1st sp.s. c 23:** "In order to preserve funding for education, public safety, health care, environmental protection, and safety net services for children, elderly, disabled, and vulnerable people, it is the intent of the legislature to close obsolete tax preferences, clarify the legislature's intent regarding existing tax policy, and to ensure balanced tax policy while bolstering emerging industries." [2010 1st sp.s. c 23 s 1.]

**Findings—Intent—2010 1st sp.s. c 23:** "(1) The legislature finds that out-of-state businesses that do not have a physical presence in Washington earn significant income from Washington residents from

providing services or collecting royalties on the use of intangible property in this state. The legislature further finds that these businesses receive significant benefits and opportunities provided by the state, such as: Laws providing protection of business interests or regulating consumer credit; access to courts and judicial process to enforce business rights, including debt collection and intellectual property rights; an orderly and regulated marketplace; and police and fire protection and a transportation system benefiting in-state agents and other representatives of out-of-state businesses. Therefore, the legislature intends to extend the state's business and occupation tax to these companies to ensure that they pay their fair share of the cost of services that this state renders and the infrastructure it provides.

(2) (a) The legislature also finds that the current cost apportionment method in RCW 82.04.460(1) for apportioning most service income has been difficult for both taxpayers and the department to apply due in large part (i) to the difficulty in assigning certain costs of doing business inside or outside of this state, and (ii) to its dissimilarity with the apportionment methods used in other states for their business activity taxes.

(b) The legislature further finds that there is a trend among states to adopt a single factor apportionment formula based on sales. The legislature recognizes that adoption of a sales factor only apportionment method has the advantages of simplifying apportionment and making Washington a more attractive place for businesses to expand their property and payroll. For these reasons, the legislature adopts single factor sales apportionment for purposes of apportioning royalty income and certain service income for state business and occupation tax purposes.

(c) Nothing in this act may be construed, however, to authorize apportionment of the gross income or value of products taxable under the following business and occupation tax classifications: Retailing, wholesaling, manufacturing, processing for hire, extracting, extracting for hire, printing, government contracting, public road construction, the classifications in RCW 82.04.280(1) (b), (d), (f), and (g), and any other activity not specifically included in the definition of apportionable activities in RCW 82.04.460.

(d) Nothing in this part is intended to modify the nexus and apportionment requirements for local gross receipts business and occupation taxes." [2011 c 174 s 208; 2010 1st sp.s. c 23 s 101.]

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**RCW 82.04.230 Tax upon extractors.** Upon every person engaging within this state in business as an extractor, except persons taxable as an extractor under any other provision in this chapter; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted for sale or for commercial or industrial use, multiplied by the rate of 0.484 percent.

The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the state. [2006 c 300 s 5; 1993 sp.s. c 25 s 101; 1971 ex.s. c 281 s 2; 1969 ex.s. c 262 s 33; 1967 ex.s. c 149 s 7; 1961 c 15 s 82.04.230. Prior: 1955 c 389 s 43; prior: 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Effective dates—Contingent effective date—2006 c 300:** See note following RCW 82.04.261.

**Severability—1993 sp.s. c 25:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 sp.s. c 25 s 1002.]

**Effective dates—1993 sp.s. c 25:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993, except:

(1) Sections 901 and 902 of this act take effect immediately [May 28, 1993].

(2) Sections 601 through 603 of this act take effect January 1, 1994." [1993 sp.s. c 25 s 1003.]

**Part headings, captions not law—1993 sp.s. c 25:** "Part headings and captions as used in this act constitute no part of the law." [1993 sp.s. c 25 s 1004.]

**RCW 82.04.240 Tax on manufacturers.** Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured, multiplied by the rate of 0.484 percent.

The measure of the tax is the value of the products, including by-products, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state. [2004 c 24 s 4; (2017 3rd sp.s. c 37 s 518); (2017 3rd sp.s. c 37 s 517 expired January 1, 2018); (2017 c 135 s 9); (2010 c 114 s 104); (2003 c 149 s 3); 1998 c 312 s 3; 1993 sp.s. c 25 s 102; 1981 c 172 s 1; 1979 ex.s. c 196 s 1; 1971 ex.s. c 281 s 3; 1969 ex.s. c 262 s 34; 1967 ex.s. c 149 s 8; 1965 ex.s. c 173 s 5; 1961 c 15 s 82.04.240. Prior: 1959 c 211 s 1; 1955 c 389 s 44; prior: 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Effective date—2017 3rd sp.s. c 37 ss 101-104, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, 707, and 801-803:** See note following RCW 82.04.2404.

**Expiration date—2017 3rd sp.s. c 37 ss 502, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, and 525:** See note following RCW 82.04.2404.

**Contingent effective date—2017 c 135; 2010 c 114:** See RCW 82.32.790.

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Finding—Intent—2010 c 114:** See note following RCW 82.32.534.

**Intent—Effective date—2004 c 24:** See notes following RCW 82.04.2909.

**Findings—Intent—2003 c 149:** See note following RCW 82.04.426.

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Effective dates—1981 c 172:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981, except section 9 of this act shall take effect September 1, 1981, sections 7 and 8 of this act shall take effect October 1, 1981, and section 10 of this act shall take effect July 1, 1983." [1981 c 172 s 12.]

**Effective date—1979 ex.s. c 196:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 196 s 15.]

**RCW 82.04.2403 Manufacturer tax not applicable to cleaning fish.** The tax imposed by RCW 82.04.240 does not apply to cleaning fish. "Cleaning fish" means the removal of the head, fins, or viscera from fresh fish without further processing, other than freezing. [1994 c 167 s 1.]

**Effective date—1994 c 167:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1994]." [1994 c 167 s 3.]

**RCW 82.04.2404 Manufacturers—Processors for hire—Semiconductor materials. (Expires January 1, 2034.)** (1) Upon every person engaging within this state in the business of manufacturing or processing for hire semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) For the purposes of this section "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for 50 percent of the amount of the tax preference under this section, if the number of persons employed by the person claiming the tax preference is less than 90 percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed.

(5) This section expires January 1, 2034. [2024 c 261 s 10; 2021 c 145 s 6; 2017 3rd sp.s. c 37 s 503; (2017 3rd sp.s. c 37 s 502 expired January 1, 2018); 2017 c 135 s 10; 2010 c 114 s 105; 2006 c 84 s 2.]

**Tax preference performance statement—2024 c 261 s 10:** "(1) This section is the tax preference performance statement for section 10, chapter 261, Laws of 2024. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The tax preference performance statement in section 1, chapter 139, Laws of 2020 applies to the expansion of the tax preference in section 10, chapter 261, Laws of 2024." [2024 c 261 s 14.]

**Effective date—2024 c 261:** See note following RCW 82.04.241.

**Effective date—2017 3rd sp.s. c 37 ss 102-104, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, 707, and 801-803:** "Sections 201, 203, 204, 205, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, and 707 of this act and parts I and VIII of this act take effect January 1, 2018." [2017 3rd sp.s. c 37 s 1404.]

**Tax preference performance statement—2020 c 139; 2017 3rd sp.s. c 37 ss 502 and 503:** "(1) This section is the tax preference performance statement for the tax preferences contained in sections 502 and 503, chapter 37, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to maintain and expand business in the semiconductor cluster. It is the legislature's intent to extend by ten years the preferential tax rates for manufacturers and processors for hire of semiconductor materials in order to maintain and grow jobs in the semiconductor cluster.

(4) If a review finds that: (a) Since October 19, 2017, at least one project in the semiconductor cluster has located in Clark county, and that this project generates at least two thousand five hundred high-wage jobs, all of which pay twenty dollars per hour or more and at least eighty percent of which pay thirty-five dollars per hour or more; and (b) the number of jobs in the semiconductor cluster in Washington has increased since October 19, 2017, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data from the department of revenue's annual survey for tax years ending before January 1, 2020, and annual tax performance report for subsequent tax years." [2020 c 139 s 1; 2017 3rd sp.s. c 37 s 501.]

**Expiration date—2017 3rd sp.s. c 37 ss 502, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, and 525:** "Sections 502, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, and 525 of this act expire January 1, 2018." [2017 3rd sp.s. c 37 s 1405.]

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Effective date—2007 c 54 s 22; 2006 c 84 ss 2-8:** "(1) (a) Sections 2 through 8, chapter 84, Laws of 2006 and section 22, chapter 54, Laws of 2007 are contingent upon the siting, expansion, or renovation, and commercial operation of a significant semiconductor materials fabrication facility or facilities in the state of Washington.

(b) For the purposes of this section:

(i) "Commercial operation" means the equipment and process qualifications in the new, expanded, or renovated building are completed and production for sale has begun.

(ii) "Semiconductor materials fabrication" means the manufacturing of silicon crystals, silicon ingots that are at least three hundred millimeters in diameter, raw polished semiconductor wafers that are at least three hundred millimeters in diameter, and compound semiconductor wafers that are at least three hundred millimeters in diameter.

(iii) "Significant" means that the combined investment or investments by a single person, occurring at any time before December 1, 2006, of new buildings, expansion or renovation of existing buildings, tenant improvements to buildings, and machinery and equipment in the buildings, at the commencement of commercial production, is at least three hundred fifty million dollars based on actual expenditures by the person.

(2) Except for section 1 of this act and this section, this act takes effect the first day of the month immediately following the department's determination that the contingency in subsection (1) of this section has occurred. The department shall make its determination regarding the contingency in subsection (1) of this section based on information provided to the department by affected taxpayers or representatives of affected taxpayers.

(3) The department of revenue shall provide notice of the effective date of sections 2 through 8, chapter 84, Laws of 2006 [December 1, 2006] to affected taxpayers, the legislature, the office of the code reviser, and others as deemed appropriate by the department." [2007 c 54 s 29; 2006 c 84 s 9.]

**Findings—Intent—2006 c 84:** "The legislature finds that the welfare of the people of the state of Washington is positively impacted through the encouragement and expansion of family wage employment in the state's manufacturing industries. The legislature further finds that targeting tax incentives to focus on key industry clusters is an important business climate strategy. Washington state has recognized the semiconductor industry, which includes the design and manufacture of semiconductor materials, as one of the state's existing key industry clusters. Businesses in this cluster in the state of Washington are facing increasing pressure to expand elsewhere. The sales and use tax exemptions for manufacturing machinery and equipment enacted by the 1995 legislature improved Washington's ability to compete with other states for manufacturing investment. In 2003 the legislature enacted comprehensive tax incentives for the semiconductor cluster that address activities of the lead product industry and its suppliers and customers. These tax incentives are contingent on the investment of at least one billion dollars in a new semiconductor microchip fabrication facility in this state, which has not occurred. This investment criteria failed to recognize the significance of potential investment in the advanced semiconductor materials sector. Therefore, the legislature intends to complement existing comprehensive tax incentives for the semiconductor cluster to address activities of the advanced semiconductor materials product industry and its suppliers and customers. Tax incentives for the semiconductor cluster are important in both retention and expansion of existing businesses and attraction of new businesses, all of which will strengthen this cluster. The legislature also recognizes that the semiconductor industry involves major investment that results in significant construction projects, which will create jobs and bring many indirect benefits to the state during the construction phase." [2006 c 84 s 1.]

**RCW 82.04.241 Manufacturers—Semiconductor materials.**

**(Contingent effective date; contingent expiration date.)** (1) Upon every person engaging within this state in the business of manufacturing semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent. For the purposes of this subsection "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(2) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(4) Any person who has claimed the preferential rate under this section must reimburse the department for 50 percent of the amount of the tax preference under this section if the number of persons employed by the person claiming the tax preference is less than 90 percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential rate is claimed.

(5) This section expires January 1, 2034, unless the contingency in RCW 82.32.790(2) occurs. [2024 c 261 s 2.]

**Tax preference performance statement exemption—2024 c 261 ss**

**2-9:** "RCW 82.32.808 does not apply to sections 2 through 9 of this act." [2024 c 261 s 13.]

**Effective date—2024 c 261:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 26, 2024]." [2024 c 261 s 16.]

**RCW 82.04.250 Tax on retailers.** (1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260(11) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3)(a) Until July 1, 2040, upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of .2904 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.534. [2014 c 97 s 402; (2014 c 97 s 401 expired July 9, 2014); 2013 3rd sp.s. c 2 s 7; 2010 1st sp.s. c 23 s 509; (2010 1st sp.s. c 23 s 508 expired July 1, 2011); (2010 1st sp.s. c 23 s 507 expired July 13, 2010); 2010 1st sp.s. c 11 s 1; (2010 c 114 s 106 expired July 1, 2011); 2008 c 81 s 5; (2007 c 54 s 5 repealed by 2010 1st sp.s. c 11 s 7); 2006 c 177 s 5; 2003 2nd sp.s. c 1 s 2; (2003 1st sp.s. c 2 s 1 expired July 1, 2006). Prior: 1998 c 343 s 5; 1998 c 312 s 4; 1993 sp.s. c 25 s 103; 1981 c 172 s 2; 1971 ex.s. c 281 s 4; 1971 ex.s. c 186 s 2; 1969 ex.s. c 262 s 35; 1967 ex.s. c 149 s 9; 1961 c 15 s 82.04.250; prior: 1955 c 389 s 45; prior: 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Contingent expiration date—2014 c 97 ss 401 and 403:** "Sections 401 and 403 of this act expire on the date that sections 402 and 404 of this act take effect." [2014 c 97 s 605.]

**Contingent effective date—2013 3rd sp.s. c 2:** See RCW 82.32.850.

**Findings—Intent—2013 3rd sp.s. c 2:** See note following RCW 82.32.850.

**Effective date—2010 1st sp.s. c 23 s 509:** "Section 509 of this act takes effect July 1, 2011." [2010 1st sp.s. c 23 s 1717.]

**Effective date—2010 1st sp.s. c 23 s 508:** "Section 508 of this act takes effect July 13, 2010." [2010 1st sp.s. c 23 s 1715.]

**Expiration date—2010 1st sp.s. c 23 s 508:** "Section 508 of this act expires July 1, 2011." [2010 1st sp.s. c 23 s 1716.]

**Expiration date—2010 1st sp.s. c 23 s 507:** "Section 507 of this act expires July 13, 2010." [2010 1st sp.s. c 23 s 1714.]

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Expiration date—2010 c 114 s 106:** "Section 106 of this act expires July 1, 2011." [2010 c 114 s 204.]

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Expiration date—2008 c 81 s 5:** "Section 5 of this act expires July 1, 2011." [2008 c 81 s 19.] This expiration date was repealed by 2010 1st sp.s. c 11 s 7.

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**Effective date—2007 c 54 s 5:** "Section 5 of this act takes effect July 1, 2011." [2007 c 54 s 30.] This effective date was repealed by 2010 1st sp.s. c 11 s 7.

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Expiration date—2006 c 177 s 5:** "Section 5 of this act expires July 1, 2011." [2006 c 177 s 14.] This expiration date was repealed by 2010 1st sp.s. c 11 s 7.

**Effective date—2006 c 177 ss 1-9:** "Sections 1 through 9 of this act take effect July 1, 2006." [2006 c 177 s 12.]

**Finding—2003 2nd sp.s. c 1:** See note following RCW 82.04.4461.

**Expiration date—2003 1st sp.s. c 2:** "This act expires July 1, 2006." [2003 1st sp.s. c 2 s 3.]

**Effective date—2003 1st sp.s. c 2:** "This act takes effect August 1, 2003." [2003 1st sp.s. c 2 s 4.]

**Effective date—1998 c 343:** See note following RCW 82.04.272.

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Effective dates—1981 c 172:** See note following RCW 82.04.240.

**Effective date—1971 ex.s. c 186:** See note following RCW 82.04.110.

**RCW 82.04.255 Tax on real estate brokers.** (1) Upon every person engaging within the state in the business of providing real estate brokerage services; as to such persons, the amount of the tax with respect to such business is equal to the gross income of the business, multiplied by the rate of 1.5 percent.

(2) The measure of the tax on real estate commissions earned by the real estate firm is the gross commission earned by the particular real estate firm including that portion of the commission paid to brokers, including designated and managing brokers, in the same firm on a particular transaction. However, when a real estate commission on a particular transaction is divided among real estate firms at the closing of the transaction, including a firm located out of state, each firm must pay the tax only upon its respective shares of said commission. Moreover, when the real estate firm has paid the tax as provided herein, brokers, including designated and managing brokers, within the same real estate firm may not be required to pay a similar tax upon the same transaction. If any firm located out of state receives a share of commission on a particular transaction, that company or broker must pay the tax based on the requirements of this section and RCW 82.04.067.

(3) For the purposes of this section, "broker," "designated broker," "managing broker," and "real estate firm" have the same meaning as provided in RCW 18.85.011. [2011 c 322 s 2; 1997 c 7 s 1; 1996 c 1 s 1; 1993 sp.s. c 25 s 202; 1985 c 32 s 2; 1983 2nd ex.s. c 3 s 1; 1983 c 9 s 1; 1970 ex.s. c 65 s 3.]

**Intent—2011 c 322:** "The legislature intends to clarify existing law that the basis for determining the business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a real estate transaction. In clarifying existing law, the legislature intends to preserve the historic method of calculating business and occupation tax for real estate firms." [2011 c 322 s 1.]

**Savings—1997 c 7:** "This act does not affect any existing right acquired or liability or obligation incurred under the sections

amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [1997 c 7 s 6.]

**Effective date—1997 c 7:** "This act takes effect July 1, 1998." [1997 c 7 s 7.]

**Effective date—1996 c 1:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect January 1, 1996." [1996 c 1 s 5.]

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Construction—1983 2nd ex.s. c 3:** "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1983 2nd ex.s. c 3 s 65.]

**Severability—1983 2nd ex.s. c 3:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 2nd ex.s. c 3 s 66.]

**Effective dates—1983 2nd ex.s. c 3:** "(1) This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect July 1, 1983, except that:

(a) Sections 42 through 50, and 52, 53, 65, and 66 of this act shall take effect June 30, 1983;

(b) Sections 1 through 4 of this act shall take effect July 1, 1983, except as provided in subsection (2) of this section;

(c) Sections 21, 22, and 51 of this act shall take effect January 1, 1984. Section 51 of this act shall be effective for property taxes levied in 1983 and due in 1984, and thereafter; and

(d) Section 63 of this act shall take effect April 1, 1985, and shall be effective in respect to taxable activities occurring on and after April 1, 1985; and

(e) The extension under this act of the retail sales tax to certain sales of telephone service shall apply to telephone service billed on or after July 1, 1983, whether or not such service was rendered before that date.

(f) Sections 61 and 62 of this act shall take effect on the day either of the following events occurs, whichever is earlier:

(i) A temporary or permanent injunction or order becomes effective which prohibits in whole or in part the collection of taxes at the rates specified in section 6, chapter 7, Laws of 1983; or

(ii) A decision of a court in this state invalidating in whole or in part section 6, chapter 7, Laws of 1983, becomes final.

(2) The legislature finds that the amendments contained in sections 1 through 4 of this act constitute an integrated and inseparable entity and if any one or more of those sections does not become law, the remaining sections shall not take effect. If sections

1 through 4 of this act do not become law, the governor shall in that event reduce approved allotments under RCW 43.88.110 for the 1983-85 biennium by four percent." [1983 2nd ex.s. c 3 s 67.]

**Reviser's note:** (1) "Sections 42 through 50 and 52" consist of the 1983 2nd ex.s. c 3 amendments to RCW 82.49.010, 88.02.020, 88.02.030, 88.02.050, and 88.02.110 and the enactment of RCW 43.51.400, 82.49.020, 82.49.070, 88.02.070, and 88.02.080. "Section 53" consists of the enactment of a new section which appears as a footnote to RCW 88.02.020, and "sections 65 and 66" consist of the enactment of new sections which appear as footnotes to RCW 82.04.255 above.

(2) "Sections 1 through 4" consist of the 1983 2nd ex.s. c 3 ss 1-4 amendments to RCW 82.04.255, 82.04.290, 82.04.2904, and 82.04.2901, respectively.

(3) "Sections 21, 22, and 51" consist of the 1983 2nd ex.s. c 3 amendments to RCW 82.48.010, 82.48.030, and 84.36.080, respectively.

(4) "Section 63" consists of the 1983 2nd ex.s. c 3 amendment to RCW 82.32.045.

(5) "Sections 61 and 62" consist of the 1983 2nd ex.s. c 3 ss 61 and 62 amendments to RCW 82.04.2901 and 82.08.020, respectively. For the effective date of sections 61 and 62, see *Bond v. Burrows*, 103 Wn.2d 153 (1984).

**Construction—1983 c 9:** "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended in this act, nor any rule, regulation, or order adopted nor any proceeding instituted under those sections." [1983 c 9 s 6.]

**Severability—1983 c 9:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 9 s 7.]

**Effective date—1983 c 9:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect March 1, 1983. The additional taxes and tax rate changes imposed under this act shall take effect on the dates designated in this act notwithstanding the date this act becomes law under Article III, section 12 of the state Constitution." [1983 c 9 s 8.]

**Effective date—Severability—1970 ex.s. c 65:** See notes following RCW 82.03.050.

**RCW 82.04.257 Tax on digital products and services.** (1) Except as provided in subsection (2) of this section, upon every person engaging within this state in the business of making sales at retail or wholesale of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)(c), as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent in the case of retail sales and by the rate of 0.484 percent in the case of wholesale sales.

(2) Persons providing subscription television services or subscription radio services are subject to tax under RCW 82.04.290(2) on the gross income of the business received from providing such services.

(3) For purposes of this section, a person is considered to be engaging within this state in the business of making sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)(c), if the person makes sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)(c) and the sales are sourced to this state under RCW 82.32.730 for sales tax purposes or would have been sourced to this state under RCW 82.32.730 if the sale had been taxable under chapter 82.08 RCW.

(4) A person subject to tax under this section is subject to the mandatory electronic filing and payment requirements in RCW 82.32.080. [2017 c 323 s 515; 2010 c 111 s 301; 2009 c 535 s 401.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Purpose—Retroactive application—Effective date—2010 c 111:** See notes following RCW 82.04.050.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**RCW 82.04.258 Digital products—Apportionable income.** (1)(a) Any person subject to tax under RCW 82.04.257 engaging both within and outside this state in the business of making sales at retail or wholesale of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)(c), must apportion to this state that portion of apportionable income derived from activity performed within this state as provided in subsection (2) of this section.

(b) For purposes of this subsection, a person is considered to be engaging outside this state in the business of making sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)(c) if the person makes any sales of digital goods, digital codes, digital automated services, or services described in RCW 82.04.050 (2)(g) or (6)(c) that are sourced to a jurisdiction other than Washington under RCW 82.32.730 for sales tax purposes or would have been sourced to a jurisdiction other than Washington under RCW 82.32.730 if the sale had been a retail sale.

(2) Apportionable income must be apportioned to Washington by multiplying the apportionable income by the sales factor.

(3)(a) The sales factor is a fraction, the numerator of which is the total receipts of the taxpayer from making sales of digital goods, digital codes, digital automated services, and services described in RCW 82.04.050 (2)(g) or (6)(c) in this state during the tax period, and the denominator of which is the total receipts of the taxpayer derived from such activity everywhere during the tax period.

(b) For purposes of computing the sales factor, sales are considered in this state if the sale was sourced to this state under RCW 82.32.730 for sales tax purposes or would have been sourced to

this state under RCW 82.32.730 if the sale had been taxable under chapter 82.08 RCW.

(4) For purposes of this section, "apportionable income" means the gross income of the business taxable under RCW 82.04.257, including income received from activities outside this state if the income would be taxable under RCW 82.04.257 if received from activities in this state. [2017 c 323 s 516; 2009 c 535 s 402.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**RCW 82.04.260 Tax on manufacturers and processors of various foods and by-products—Research and development organizations—Travel agents—Certain international activities—Stevedoring and associated activities—Low-level waste disposers—Insurance producers, surplus line brokers, and title insurance agents—Hospitals—Commercial airplane activities—Timber product activities—Canned salmon processors. (Effective until January 1, 2034.)** (1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2035, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) (i) Except as provided otherwise in (c) (iii) of this subsection, beginning July 1, 2035, until January 1, 2046, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any cannabis-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than 70 percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, 2035, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include cannabis, useable cannabis, or cannabis-infused products; and

(e) Wood biomass fuel; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent. For the purposes of this section, "wood biomass fuel" means a liquid or gaseous fuel that is produced from lignocellulosic feedstocks, including wood, forest, or field residue and dedicated energy crops, and that does not include wood treated with chemical preservations such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)(a) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was \$250,000 or less; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(b) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was more than \$250,000; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent through June 30, 2019, and 0.9 percent beginning July 1, 2019.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8) (a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 70A.380.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 70A.384 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed

activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007;

(ii) 0.2904 percent beginning July 1, 2007, through March 31, 2020; and

(iii) Beginning April 1, 2020, 0.484 percent, subject to any reduction required under (e) of this subsection (11). The tax rate in this subsection (11)(a)(iii) applies to all business activities described in this subsection (11)(a).

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.2904 percent through March 31, 2020; and

(ii) Beginning April 1, 2020, the following rates, which are subject to any reduction required under (e) of this subsection (11):

(A) The rate under RCW 82.04.250(1) on the business of making retail sales of tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes; and

(B) 0.484 percent on all other business activities described in this subsection (11)(b).

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d)(i) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual tax performance report with the department under RCW 82.32.534. However, this requirement does not apply to persons reporting under the tax rate in (a)(iii) of this subsection (11), so long as that rate remains 0.484 percent, or under any of the tax rates in (b)(ii)(A) and (B) of this subsection (11), so long as those tax rates remain the rate imposed pursuant to RCW 82.04.250(1) and 0.484 percent, respectively.

(ii) Nothing in (d)(i) of this subsection (11) may be construed as affecting the obligation of a person reporting under a tax rate provided in this subsection (11) to file a complete annual tax performance report with the department under RCW 82.32.534: (A) Pursuant to another provision of this title as a result of claiming a tax credit or exemption; or (B) pursuant to (d)(i) of this subsection (11) as a result of claiming the tax rates in (a)(ii) or (b)(i) of this subsection (11) for periods ending before April 1, 2020.

(e)(i) After March 31, 2021, the tax rates under (a)(iii) and (b)(ii) of this subsection (11) must be reduced to 0.357 percent provided the conditions in RCW 82.04.2602 are met. The effective date of the rates authorized under this subsection (11)(e) must occur on the first day of the next calendar quarter that is at least 60 days after the department receives the last of the two written notices pursuant to RCW 82.04.2602 (3) and (4).

(ii) Both a significant commercial airplane manufacturer separately and the rest of the aerospace industry as a whole, receiving the rate of 0.357 percent under this subsection (11)(e) are subject to the aerospace apprenticeship utilization rates required under RCW 49.04.220 by April 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under this subsection (11)(e), whichever is later, as determined by the department of labor and industries.

(iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this subsection (11)(e).

(f)(i) Except as provided in (f)(ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11)(f)(ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850. This subsection (11)(f)(ii) continues to apply during the time that a person is subject to the tax rate in (a)(iii) of this subsection (11).

(g) For the purposes of this subsection, "a significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least 50,000 full-time employees in Washington as of January 1, 2021.

(12)(a) Until July 1, 2045, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(b) Until July 1, 2045, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined

in RCW 19.27.570(1); as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(c) Until July 1, 2045, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, wood products, or products defined in RCW 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(d) Until July 1, 2045, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within 30 months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than 50 percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having 50 percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual tax performance report with the department under RCW 82.32.534.

(g) Nothing in this subsection (12) may be construed to affect the taxation of any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW 82.04.060(2), or taxed under RCW 82.04.280(1) (g).

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent. [2023 c 422 s 5; 2023 c 286 s 3; 2022 c 16 s 140; 2021 c 145 s 7; 2020 c 165 s 3. Prior: 2019 c 425 s 1; 2019 c 336 s 4; 2018 c 164 s 3; 2017 c 135 s 11; prior: 2015 3rd sp.s. c 6 s 602; 2015 3rd sp.s. c 6 s 205; prior: 2014 c 140 s 6; (2014 c 140 s 5 expired July 1, 2015); 2014 c 140 s 4; (2014 c 140 s 3 expired July 1, 2015); 2013 3rd sp.s. c 2 s 6; (2013 3rd sp.s. c 2 s 5 expired July 1, 2015); 2013 2nd sp.s. c 13 s 203; (2013 2nd sp.s. c 13 s 202 expired July 1, 2015); prior: (2012 2nd sp.s. c 6 s 602 expired July 1, 2015); 2012 2nd sp.s. c 6 s 204; 2011 c 2 s 203 (Initiative Measure No. 1107, approved November 2, 2010); 2010 1st sp.s. c 23 s 506; (2010 1st sp.s. c 23 s 505 expired June 10, 2010); 2010 c 114 s 107; prior: 2009 c 479 s 64; 2009 c 461 s 1; 2009 c 162 s 34; prior: 2008 c 296 s 1; 2008 c 217 s 100; 2008 c 81 s 4; prior: 2007 c 54 s 6; 2007 c 48 s 2; prior: 2006 c 354 s 4; 2006 c 300 s 1; prior: 2005 c 513 s 2; 2005 c 443 s 4; prior: 2003 2nd sp.s. c 1 s 4; 2003 2nd sp.s. c 1 s 3; 2003 c 339 s 11; 2003 c 261 s 11; 2001 2nd sp.s. c 25 s 2; prior: 1998 c 312 s 5; 1998 c 311 s 2; prior: 1998 c 170 s 4; 1996 c 148 s 2; 1996 c 115 s 1; prior: 1995 2nd sp.s. c 12 s 1; 1995 2nd sp.s. c 6 s 1; 1993 sp.s. c 25 s 104; 1993 c 492 s 304; 1991 c 272 s 15; 1990 c 21 s 2; 1987 c 139 s 1; prior: 1985 c 471 s 1; 1985 c 135 s 2; 1983 2nd ex.s. c 3 s 5; prior: 1983 1st ex.s. c 66 s 4; 1983 1st ex.s. c 55 s 4; 1982 2nd ex.s. c 13 s 1; 1982 c 10 s 16; prior: 1981 c 178 s 1; 1981 c 172 s 3; 1979 ex.s. c 196 s 2; 1975 1st ex.s. c 291 s 7; 1971 ex.s. c 281 s 5; 1971 ex.s. c 186 s 3; 1969 ex.s. c 262 s 36; 1967 ex.s. c 149 s 10; 1965 ex.s. c 173 s 6; 1961 c 15 s 82.04.260; prior: 1959 c 211 s 2; 1955 c 389 s 46; prior: 1953 c 91 s 4; 1951 2nd ex.s. c 28 s 4; 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Reviser's note:** This section was amended by 2023 c 286 s 3 and by 2023 c 422 s 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Tax preference performance statement—2023 c 422 ss 2-5:** See note following RCW 82.04.4268.

**Findings—Effective date—Expiration date—2023 c 286:** See notes following RCW 82.04.759.

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Findings—Intent—Effective date—2020 c 165:** See notes following RCW 82.04.2602.

**Effective date—2019 c 425:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 425 s 2.]

**Findings—Intent—2019 c 336:** See notes following RCW 82.04.261.

**Tax preference performance statement—Effective date—2018 c 164:** See notes following RCW 82.08.900.

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Expiration date—2015 3rd sp.s. c 6; 2012 2nd sp.s. c 6 s 602:** "Section 602 of this act expires July 1, 2015." [2015 3rd sp.s. c 6 s 603; 2012 2nd sp.s. c 6 s 704.]

**Findings—Intent—Tax preference performance statement—2015 3rd sp.s. c 6 s 602:** "(1) The legislature finds that over the last fifteen years, technological transformation and other developments have radically changed the newspaper industry business model, which remains in transition. The legislature further finds that the economic hardship wrought by this digital transformation has been substantial. The legislature finds that a strong and vibrant newspaper industry in Washington is beneficial to the state's citizens and to the conduct of good government at every level. The legislature further finds that advertising revenue of all United States newspapers fell from 63.5 billion dollars in 2000 to about twenty-three billion dollars in 2013, and is still falling. The legislature further finds that traditional news organizations' ability to support high quality news gathering and reporting relied primarily on a model in which advertisers paid to reach mass audiences attracted by newspapers. The legislature further finds that advertisers found it advantageous to pay to reach a mass audience because other advertising mediums were limited and less effective. The digital era has greatly fractured traditional spending by advertisers and turned this model on its head such that newspapers continue to require time to adapt so they may continue their public service mission. The legislature also finds that the business and occupation tax rate for the newspaper industry was pegged to the general manufacturing and wholesaling rate from 1937 until 2009, when the legislature extended tax relief to the industry due to this shift. It is the legislature's intent to extend this tax relief to the industry until its revenues and business model have stabilized. It is the legislature's further intent to provide a uniform tax rate for the industry to minimize the burden of reporting state business and

occupation taxes for different types of revenue, which oftentimes are impossible to account for separately by the taxpayer.

(2) (a) This subsection is the tax preference performance statement for the newspaper tax preferences in section 602 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes this tax preference as one intended to provide temporary tax relief as described in RCW 82.32.808(2) (e).

(c) It is the legislature's specific public policy objective to provide business and occupation tax relief to the newspaper industry as it continues to adjust to significant revenue shifts and technological changes. As a secondary public policy objective, it is the legislature's intent to provide a permanent uniform rate for the industry.

(d) To measure the effectiveness of the preference provided in this act in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee must evaluate year-to-year changes in gross revenue derived from all sources for newspaper firms claiming the preferential tax rate under RCW 82.04.260(14). If the average year-to-year change in gross revenue is positive, including the last three years included in the tax preference review by the joint legislative audit and review committee, it is the legislature's intent to allow the tax preference to expire and to reinstate the traditional rate of 0.484 percent.

(e) (i) The information provided in the annual tax preference accountability report submitted by taxpayers as required by the department of revenue and taxpayer data provided by the department of revenue is intended to provide the informational basis for the evaluation under (d) of this subsection.

(ii) In addition to the data source described under (e) (i) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (d) of this subsection." [2015 3rd sp.s. c 6 s 601.]

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Tax preference performance statement—2015 3rd sp.s. c 6 ss 202-205:** See note following RCW 82.04.4266.

**Contingent effective date—2014 c 140 s 6:** "Section 6 of this act takes effect July 1, 2015, subject to the contingency stated in section 2, chapter 2, Laws of 2013 3rd sp. sess." [2014 c 140 s 39.]

**Contingent expiration date—2014 c 140 s 5:** "Section 5 of this act expires July 1, 2015, subject to the contingency stated in section 2, chapter 2, Laws of 2013 3rd sp. sess." [2014 c 140 s 38.]

**Effective date—2014 c 140 s 4:** "Section 4 of this act takes effect July 1, 2015." [2014 c 140 s 37.]

**Expiration date—2014 c 140 s 3:** "Section 3 of this act expires July 1, 2015." [2014 c 140 s 36.]

**Effective date—2013 3rd sp.s. c 2 s 6:** "Subject to section 2 of this act, section 6 of this act takes effect July 1, 2015." [2013 3rd sp.s. c 2 s 16.]

**Expiration date—2013 3rd sp.s. c 2 s 5:** "Subject to section 2 of this act, section 5 of this act expires July 1, 2015." [2013 3rd sp.s. c 2 s 15.]

**Contingent effective date—2013 3rd sp.s. c 2:** See RCW 82.32.850.

**Findings—Intent—2013 3rd sp.s. c 2:** See note following RCW 82.32.850.

**Effective date—2013 2nd sp.s. c 13 s 203:** "Section 203 of this act takes effect July 1, 2015." [2013 2nd sp.s. c 13 s 1902.]

**Expiration date—2013 2nd sp.s. c 13 s 202:** "Section 202 of this act expires July 1, 2015." [2013 2nd sp.s. c 13 s 1901.]

**Intent—2013 2nd sp.s. c 13:** "The intent of part II of this act is to incentivize the creation of additional jobs in Washington in the dairy industry and related industries that manufacture dairy-based products. More specifically, it is the intent of part II of this act to encourage infant formula producers to locate new facilities in Washington or expand existing facilities in Washington through an extension of a preferential business and occupation tax rate for dairy producers. It is the further intent of the legislature to provide this tax incentive in a fiscally responsible manner where the actual revenue impact of the legislation substantially conforms with the fiscal estimate provided in the legislation's fiscal note." [2013 2nd sp.s. c 13 s 201.]

**Effective date—2013 2nd sp.s. c 13:** See note following RCW 82.04.43393.

**Existing rights, liabilities, or obligations—Effective dates—Contingent effective dates—2012 2nd sp.s. c 6:** See notes following RCW 82.04.29005.

**Findings—Construction—2011 c 2 (Initiative Measure No. 1107):** See notes following RCW 82.08.0293.

**Expiration date—2010 1st sp.s. c 23 ss 503, 505, and 514:** See note following RCW 82.04.4266.

**Effective date—2010 1st sp.s. c 23 ss 504, 506, and 515:** See note following RCW 82.04.4266.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**Effective date—Contingent effective date—2009 c 461:** See note following RCW 82.04.280.

**Effective date—2009 c 162:** See note following RCW 48.03.020.

**Retroactive application—2008 c 296:** "Section 1 of this act applies retroactively to July 1, 2007, as well as prospectively." [2008 c 296 s 2.]

**Severability—Effective date—2008 c 217:** See notes following RCW 48.03.020.

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Effective date—2007 c 48:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 48 s 9.]

**Effective dates—2006 c 354:** See note following RCW 82.04.4268.

**Effective dates—Contingent effective date—2006 c 300:** See note following RCW 82.04.261.

**Effective dates—2005 c 513:** See note following RCW 82.04.4266.

**Finding—Intent—Effective date—2005 c 443:** See notes following RCW 82.08.0255.

**Finding—2003 2nd sp.s. c 1:** See note following RCW 82.04.4461.

**Effective dates—2003 c 339:** See note following RCW 84.36.640.

**Effective dates—2003 c 261:** See note following RCW 84.36.635.

**Purpose—Intent—2001 2nd sp.s. c 25:** "The purpose of sections 2 and 3 of this act is to provide a tax rate for persons who manufacture dairy products that is commensurate to the rate imposed on certain other processors of agricultural commodities. This tax rate applies to persons who manufacture dairy products from raw materials such as fluid milk, dehydrated milk, or by-products of milk such as cream, buttermilk, whey, butter, or casein. It is not the intent of the legislature to provide this tax rate to persons who use dairy products as an ingredient or component of their manufactured product, such as milk-based soups or pizza. It is the intent that persons who manufacture products such as milk, cheese, yogurt, ice cream, whey, or whey products be subject to this rate." [2001 2nd sp.s. c 25 s 1.]

**Part headings not law—2001 2nd sp.s. c 25:** "Part headings used in this act are not any part of the law." [2001 2nd sp.s. c 25 s 7.]

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**Effective date—1998 c 170:** See note following RCW 82.04.331.

**Severability—Effective date—1996 c 148:** See notes following RCW 82.04.050.

**Effective date—1996 c 115:** "This act shall take effect July 1, 1996." [1996 c 115 s 2.]

**Effective date—1995 2nd sp.s. c 12:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 2nd sp.s. c 12 s 2.]

**Effective date—1995 2nd sp.s. c 6:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 2nd sp.s. c 6 s 2.]

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Findings—Intent—1993 c 492:** See notes following RCW 43.20.050.

**Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Effective dates—1991 c 272:** See RCW 81.108.901.

**Severability—1985 c 471:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 471 s 17.]

**Effective date—1985 c 471:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 471 s 18.]

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Effective dates—1983 1st ex.s. c 55:** See note following RCW 82.08.010.

**Severability—1982 2nd ex.s. c 13:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 2nd ex.s. c 13 s 2.]

**Effective date—1982 2nd ex.s. c 13:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect August 1, 1982." [1982 2nd ex.s. c 13 s 3.]

**Severability—1982 c 10:** See note following RCW 6.13.080.

**Effective dates—1981 c 172:** See note following RCW 82.04.240.

**Effective date—1979 ex.s. c 196:** See note following RCW 82.04.240.

**Effective dates—Severability—1975 1st ex.s. c 291:** See notes following RCW 82.04.050.

**Effective date—1971 ex.s. c 186:** See note following RCW 82.04.110.

**RCW 82.04.260 Tax on manufacturers and processors of various foods and by-products—Research and development organizations—Travel agents—Certain international activities—Stevedoring and associated activities—Low-level waste disposers—Insurance producers, surplus line brokers, and title insurance agents—Hospitals—Commercial airplane activities—Timber product activities—Canned salmon processors. (Effective January 1, 2034.)** (1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2035, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) (i) Except as provided otherwise in (c) (iii) of this subsection, beginning July 1, 2035, until January 1, 2046, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods

were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any cannabis-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than 70 percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, 2035, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include cannabis, useable cannabis, or cannabis-infused products; and

(e) Wood biomass fuel; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent. For the purposes of this section, "wood biomass fuel" means a liquid or gaseous fuel that is produced from lignocellulosic feedstocks, including wood, forest, or field residue and dedicated energy crops, and that does not include wood treated with chemical preservations such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)(a) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was

\$250,000 or less; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(b) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was more than \$250,000; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent through June 30, 2019, and 0.9 percent beginning July 1, 2019.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8) (a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 70A.380.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 70A.384 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007;

(ii) 0.2904 percent beginning July 1, 2007, through March 31, 2020; and

(iii) Beginning April 1, 2020, 0.484 percent, subject to any reduction required under (e) of this subsection (11). The tax rate in this subsection (11)(a)(iii) applies to all business activities described in this subsection (11)(a).

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.2904 percent through March 31, 2020; and

(ii) Beginning April 1, 2020, the following rates, which are subject to any reduction required under (e) of this subsection (11):

(A) The rate under RCW 82.04.250(1) on the business of making retail sales of tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes; and

(B) 0.484 percent on all other business activities described in this subsection (11)(b).

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d)(i) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual tax performance report with the department under RCW 82.32.534. However, this requirement does not apply to persons reporting under the tax rate in (a)(iii) of this subsection (11), so long as that rate remains 0.484 percent, or under any of the

tax rates in (b) (ii) (A) and (B) of this subsection (11), so long as those tax rates remain the rate imposed pursuant to RCW 82.04.250(1) and 0.484 percent, respectively.

(ii) Nothing in (d) (i) of this subsection (11) may be construed as affecting the obligation of a person reporting under a tax rate provided in this subsection (11) to file a complete annual tax performance report with the department under RCW 82.32.534: (A) Pursuant to another provision of this title as a result of claiming a tax credit or exemption; or (B) pursuant to (d) (i) of this subsection (11) as a result of claiming the tax rates in (a) (ii) or (b) (i) of this subsection (11) for periods ending before April 1, 2020.

(e) (i) After March 31, 2021, the tax rates under (a) (iii) and (b) (ii) of this subsection (11) must be reduced to 0.357 percent provided the conditions in RCW 82.04.2602 are met. The effective date of the rates authorized under this subsection (11) (e) must occur on the first day of the next calendar quarter that is at least 60 days after the department receives the last of the two written notices pursuant to RCW 82.04.2602 (3) and (4).

(ii) Both a significant commercial airplane manufacturer separately and the rest of the aerospace industry as a whole, receiving the rate of 0.357 percent under this subsection (11) (e) are subject to the aerospace apprenticeship utilization rates required under RCW 49.04.220 by April 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under this subsection (11) (e), whichever is later, as determined by the department of labor and industries.

(iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this subsection (11) (e).

(f) (i) Except as provided in (f) (ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11) (f) (ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850. This subsection (11) (f) (ii) continues to apply during the time that a person is subject to the tax rate in (a) (iii) of this subsection (11).

(g) For the purposes of this subsection, "a significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least 50,000 full-time employees in Washington as of January 1, 2021.

(12) (a) Until July 1, 2045, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(b) Until July 1, 2045, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1); as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(c) Until July 1, 2045, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, wood products, or products defined in RCW 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(d) Until July 1, 2045, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within 30 months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than 50 percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having 50 percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that

are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual tax performance report with the department under RCW 82.32.534.

(g) Nothing in this subsection (12) may be construed to affect the taxation of any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW 82.04.060(2), or taxed under RCW 82.04.280(1) (g).

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14) (a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.35 percent until July 1, 2024, and 0.484 percent thereafter.

(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual tax performance report with the department under RCW 82.32.534. [2023 c 422 s 5; 2022 c 16 s 140; 2021 c 145 s 7; 2020 c 165 s 3. Prior: 2019 c 425 s 1; 2019 c 336 s 4; 2018 c 164 s 3; 2017 c 135 s 11; prior: 2015 3rd sp.s. c 6 s 602; 2015 3rd sp.s. c 6 s 205; prior: 2014 c 140 s 6; (2014 c 140 s 5 expired July 1, 2015); 2014 c 140 s 4; (2014 c 140 s 3 expired July 1, 2015); 2013 3rd sp.s. c 2 s 6; (2013 3rd sp.s. c 2 s 5 expired July 1, 2015); 2013 2nd sp.s. c 13 s 203; (2013 2nd sp.s. c 13 s 202 expired July 1, 2015); prior: (2012 2nd sp.s. c 6 s 602 expired July 1, 2015); 2012 2nd sp.s. c 6 s 204; 2011 c 2 s 203 (Initiative Measure No. 1107, approved November 2, 2010); 2010 1st sp.s. c 23 s 506; (2010 1st sp.s. c 23 s 505 expired June 10, 2010); 2010 c 114 s 107; prior: 2009 c 479 s 64; 2009 c 461 s 1; 2009 c 162 s 34; prior: 2008 c 296 s 1; 2008 c 217 s 100; 2008 c 81 s 4; prior: 2007 c 54 s 6; 2007 c 48 s 2; prior: 2006 c 354 s 4; 2006 c 300 s 1; prior: 2005 c 513 s 2; 2005 c 443 s 4; prior: 2003 2nd sp.s. c 1 s 4; 2003 2nd sp.s. c 1 s 3; 2003 c 339 s 11; 2003 c 261 s 11; 2001 2nd sp.s. c 25 s 2; prior: 1998 c 312 s 5; 1998 c 311 s 2; prior: 1998 c 170 s 4; 1996 c 148 s 2; 1996 c 115 s 1; prior: 1995 2nd sp.s. c 12 s 1; 1995 2nd sp.s. c 6 s 1; 1993 sp.s. c 25 s 104; 1993 c 492 s 304; 1991 c 272 s 15; 1990 c 21 s 2; 1987 c 139 s 1; prior: 1985 c 471 s 1; 1985 c 135 s 2; 1983 2nd ex.s. c 3 s 5; prior: 1983 1st ex.s. c 66 s 4; 1983 1st ex.s. c 55 s 4; 1982 2nd ex.s. c 13 s 1; 1982 c 10 s 16; prior: 1981 c 178 s 1; 1981 c 172 s 3; 1979 ex.s. c 196 s 2; 1975 1st ex.s. c 291 s 7; 1971 ex.s. c 281 s 5;

1971 ex.s. c 186 s 3; 1969 ex.s. c 262 s 36; 1967 ex.s. c 149 s 10; 1965 ex.s. c 173 s 6; 1961 c 15 s 82.04.260; prior: 1959 c 211 s 2; 1955 c 389 s 46; prior: 1953 c 91 s 4; 1951 2nd ex.s. c 28 s 4; 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Tax preference performance statement—2023 c 422 ss 2-5:** See note following RCW 82.04.4268.

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Findings—Intent—Effective date—2020 c 165:** See notes following RCW 82.04.2602.

**Effective date—2019 c 425:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 425 s 2.]

**Findings—Intent—2019 c 336:** See notes following RCW 82.04.261.

**Tax preference performance statement—Effective date—2018 c 164:** See notes following RCW 82.08.900.

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Expiration date—2015 3rd sp.s. c 6; 2012 2nd sp.s. c 6 s 602:** "Section 602 of this act expires July 1, 2015." [2015 3rd sp.s. c 6 s 603; 2012 2nd sp.s. c 6 s 704.]

**Findings—Intent—Tax preference performance statement—2015 3rd sp.s. c 6 s 602:** "(1) The legislature finds that over the last fifteen years, technological transformation and other developments have radically changed the newspaper industry business model, which remains in transition. The legislature further finds that the economic hardship wrought by this digital transformation has been substantial. The legislature finds that a strong and vibrant newspaper industry in Washington is beneficial to the state's citizens and to the conduct of good government at every level. The legislature further finds that advertising revenue of all United States newspapers fell from 63.5 billion dollars in 2000 to about twenty-three billion dollars in 2013, and is still falling. The legislature further finds that traditional news organizations' ability to support high quality news gathering and reporting relied primarily on a model in which advertisers paid to reach mass audiences attracted by newspapers. The legislature further finds that advertisers found it advantageous to pay to reach a mass audience because other advertising mediums were limited and less effective. The digital era has greatly fractured traditional spending by advertisers and turned this model on its head such that newspapers continue to require time to adapt so they may continue their public service mission. The legislature also finds that the business and occupation tax rate for the newspaper industry was pegged to the general manufacturing and wholesaling rate from 1937 until 2009, when the legislature extended tax relief to the industry due to this shift. It is the legislature's intent to extend this tax relief to the

industry until its revenues and business model have stabilized. It is the legislature's further intent to provide a uniform tax rate for the industry to minimize the burden of reporting state business and occupation taxes for different types of revenue, which oftentimes are impossible to account for separately by the taxpayer.

(2) (a) This subsection is the tax preference performance statement for the newspaper tax preferences in section 602 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes this tax preference as one intended to provide temporary tax relief as described in RCW 82.32.808(2) (e).

(c) It is the legislature's specific public policy objective to provide business and occupation tax relief to the newspaper industry as it continues to adjust to significant revenue shifts and technological changes. As a secondary public policy objective, it is the legislature's intent to provide a permanent uniform rate for the industry.

(d) To measure the effectiveness of the preference provided in this act in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee must evaluate year-to-year changes in gross revenue derived from all sources for newspaper firms claiming the preferential tax rate under RCW 82.04.260(14). If the average year-to-year change in gross revenue is positive, including the last three years included in the tax preference review by the joint legislative audit and review committee, it is the legislature's intent to allow the tax preference to expire and to reinstate the traditional rate of 0.484 percent.

(e) (i) The information provided in the annual tax preference accountability report submitted by taxpayers as required by the department of revenue and taxpayer data provided by the department of revenue is intended to provide the informational basis for the evaluation under (d) of this subsection.

(ii) In addition to the data source described under (e) (i) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (d) of this subsection." [2015 3rd sp.s. c 6 s 601.]

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Tax preference performance statement—2015 3rd sp.s. c 6 ss 202-205:** See note following RCW 82.04.4266.

**Contingent effective date—2014 c 140 s 6:** "Section 6 of this act takes effect July 1, 2015, subject to the contingency stated in section 2, chapter 2, Laws of 2013 3rd sp. sess." [2014 c 140 s 39.]

**Contingent expiration date—2014 c 140 s 5:** "Section 5 of this act expires July 1, 2015, subject to the contingency stated in section 2, chapter 2, Laws of 2013 3rd sp. sess." [2014 c 140 s 38.]

**Effective date—2014 c 140 s 4:** "Section 4 of this act takes effect July 1, 2015." [2014 c 140 s 37.]

**Expiration date—2014 c 140 s 3:** "Section 3 of this act expires July 1, 2015." [2014 c 140 s 36.]

**Effective date—2013 3rd sp.s. c 2 s 6:** "Subject to section 2 of this act, section 6 of this act takes effect July 1, 2015." [2013 3rd sp.s. c 2 s 16.]

**Expiration date—2013 3rd sp.s. c 2 s 5:** "Subject to section 2 of this act, section 5 of this act expires July 1, 2015." [2013 3rd sp.s. c 2 s 15.]

**Contingent effective date—2013 3rd sp.s. c 2:** See RCW 82.32.850.

**Findings—Intent—2013 3rd sp.s. c 2:** See note following RCW 82.32.850.

**Effective date—2013 2nd sp.s. c 13 s 203:** "Section 203 of this act takes effect July 1, 2015." [2013 2nd sp.s. c 13 s 1902.]

**Expiration date—2013 2nd sp.s. c 13 s 202:** "Section 202 of this act expires July 1, 2015." [2013 2nd sp.s. c 13 s 1901.]

**Intent—2013 2nd sp.s. c 13:** "The intent of part II of this act is to incentivize the creation of additional jobs in Washington in the dairy industry and related industries that manufacture dairy-based products. More specifically, it is the intent of part II of this act to encourage infant formula producers to locate new facilities in Washington or expand existing facilities in Washington through an extension of a preferential business and occupation tax rate for dairy producers. It is the further intent of the legislature to provide this tax incentive in a fiscally responsible manner where the actual revenue impact of the legislation substantially conforms with the fiscal estimate provided in the legislation's fiscal note." [2013 2nd sp.s. c 13 s 201.]

**Effective date—2013 2nd sp.s. c 13:** See note following RCW 82.04.43393.

**Existing rights, liabilities, or obligations—Effective dates—Contingent effective dates—2012 2nd sp.s. c 6:** See notes following RCW 82.04.29005.

**Findings—Construction—2011 c 2 (Initiative Measure No. 1107):** See notes following RCW 82.08.0293.

**Expiration date—2010 1st sp.s. c 23 ss 503, 505, and 514:** See note following RCW 82.04.4266.

**Effective date—2010 1st sp.s. c 23 ss 504, 506, and 515:** See note following RCW 82.04.4266.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Effective date—2009 c 479:** See note following RCW 2.56.030.

**Effective date—Contingent effective date—2009 c 461:** See note following RCW 82.04.280.

**Effective date—2009 c 162:** See note following RCW 48.03.020.

**Retroactive application—2008 c 296:** "Section 1 of this act applies retroactively to July 1, 2007, as well as prospectively." [2008 c 296 s 2.]

**Severability—Effective date—2008 c 217:** See notes following RCW 48.03.020.

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Effective date—2007 c 48:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 48 s 9.]

**Effective dates—2006 c 354:** See note following RCW 82.04.4268.

**Effective dates—Contingent effective date—2006 c 300:** See note following RCW 82.04.261.

**Effective dates—2005 c 513:** See note following RCW 82.04.4266.

**Finding—Intent—Effective date—2005 c 443:** See notes following RCW 82.08.0255.

**Finding—2003 2nd sp.s. c 1:** See note following RCW 82.04.4461.

**Effective dates—2003 c 339:** See note following RCW 84.36.640.

**Effective dates—2003 c 261:** See note following RCW 84.36.635.

**Purpose—Intent—2001 2nd sp.s. c 25:** "The purpose of sections 2 and 3 of this act is to provide a tax rate for persons who manufacture dairy products that is commensurate to the rate imposed on certain other processors of agricultural commodities. This tax rate applies to persons who manufacture dairy products from raw materials such as fluid milk, dehydrated milk, or by-products of milk such as cream, buttermilk, whey, butter, or casein. It is not the intent of the legislature to provide this tax rate to persons who use dairy products as an ingredient or component of their manufactured product, such as

milk-based soups or pizza. It is the intent that persons who manufacture products such as milk, cheese, yogurt, ice cream, whey, or whey products be subject to this rate." [2001 2nd sp.s. c 25 s 1.]

**Part headings not law—2001 2nd sp.s. c 25:** "Part headings used in this act are not any part of the law." [2001 2nd sp.s. c 25 s 7.]

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**Effective date—1998 c 170:** See note following RCW 82.04.331.

**Severability—Effective date—1996 c 148:** See notes following RCW 82.04.050.

**Effective date—1996 c 115:** "This act shall take effect July 1, 1996." [1996 c 115 s 2.]

**Effective date—1995 2nd sp.s. c 12:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 2nd sp.s. c 12 s 2.]

**Effective date—1995 2nd sp.s. c 6:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 2nd sp.s. c 6 s 2.]

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Findings—Intent—1993 c 492:** See notes following RCW 43.20.050.

**Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Effective dates—1991 c 272:** See RCW 81.108.901.

**Severability—1985 c 471:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 471 s 17.]

**Effective date—1985 c 471:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 471 s 18.]

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Effective dates—1983 1st ex.s. c 55:** See note following RCW 82.08.010.

**Severability—1982 2nd ex.s. c 13:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 2nd ex.s. c 13 s 2.]

**Effective date—1982 2nd ex.s. c 13:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect August 1, 1982." [1982 2nd ex.s. c 13 s 3.]

**Severability—1982 c 10:** See note following RCW 6.13.080.

**Effective dates—1981 c 172:** See note following RCW 82.04.240.

**Effective date—1979 ex.s. c 196:** See note following RCW 82.04.240.

**Effective dates—Severability—1975 1st ex.s. c 291:** See notes following RCW 82.04.050.

**Effective date—1971 ex.s. c 186:** See note following RCW 82.04.110.

**RCW 82.04.2602 Tax on commercial airplane activities—Conditions for rate reduction.** The rate of 0.357 percent authorized pursuant to RCW 82.04.260(11)(e) may be imposed only if the following conditions are met:

(1) The department of commerce verifies with the United States trade representative that the United States and the European Union have entered into a written agreement that resolves any world trade organization disputes involving large civil aircraft.

(2) Such agreement expressly allows a business and occupation tax rate reduction for commercial airplane manufacturers to 0.357 percent or less.

(3) The department of commerce notifies the department in writing that the conditions of subsections (1) and (2) of this section are met and provides a copy of the agreement between the United States and the European Union or other document providing for the business and occupation tax rate reduction to the department.

(4) The department of labor and industries notifies the department in writing that a significant commercial airplane manufacturer has at least a three-tenths of one percent aerospace apprenticeship utilization rate of its qualified apprenticeable workforce in Washington, as defined in RCW 49.04.220.

(5) Within thirty days of receiving the last of the written notices described in subsections (3) and (4) of this section, the department must provide written notice to the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department, that the tax rates in RCW 82.04.260(11)(e) are reduced to 0.357 percent and the effective date of the rate reduction.

(6) Any rate reduction to 0.357 percent pursuant to this section and RCW 82.04.260(11)(e) must occur on the first day of the next calendar quarter that is at least sixty days after the department

receives the last of the written notices described in subsections (3) and (4) of this section.

(7) For the purpose of this section, "world trade organization disputes involving large civil airplanes" means any disputes filed by the United States or the European Union prior to March 25, 2020, that involve either allegations of subsidies to large civil airplanes, or allegations of taxes imposed by Washington on commercial airplanes, or both. [2020 c 165 s 2.]

**Findings—Intent—2020 c 165:** "(1) Over the past two decades, the legislature has taken significant action to promote a positive business environment for Washington's aerospace industry. The legislature finds that the industry plays a significant role not only in the health of Washington's economy, but also in the health of the United States economy. Moreover, the domestic aerospace industry has faced significant challenges with the large subsidies provided to international competitors.

(2) The legislature finds that a commitment to the elimination of trade barriers for aerospace as well as several other vital Washington exports is important. The legislature also wishes to help bring the United States into full compliance with a recent world trade organization ruling asserting Washington's business and occupation tax rate of 0.2904 percent violates world trade organization rules. The legislature hopes this action to help bring the United States into compliance will end the threat of retaliatory tariffs against many of Washington's industries, including agricultural products, fish, wine, and intellectual property.

(3) The legislature appreciates the state aerospace industry's commitment to complying with the world trade organization ruling by advocating for the repeal of the preferential business and occupation tax. The legislature hopes that the repeal of this Washington aerospace preference will ensure continued economic success and competitiveness for the industry as well as many other industries. The legislature further hopes that the repeal of the 0.2904 business and occupation tax will allow for the complete resolution of all trade disputes surrounding large civil aircraft.

(4) The legislature further finds that the people of Washington benefit from the presence of the aerospace industry in Washington state. The industry provides good wages and benefits for thousands of engineers, technicians, mechanics, and support staff working across the state. Furthermore, the legislature has a goal of preserving and growing employment in Washington state. The legislature intends that the future consideration of all tax measures will work to achieve this goal in a manner compliant with the world trade organization." [2020 c 165 s 1.]

**Effective date—2020 c 165:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2020]." [2020 c 165 s 6.]

**RCW 82.04.261 Surcharge on timber and wood product manufacturers, extractors, and wholesalers. (Expires July 1, 2045.)**

(1) In addition to the taxes imposed under RCW 82.04.260(12), a surcharge is imposed on those persons who are subject to any of the

taxes imposed under RCW 82.04.260(12). Except as otherwise provided in this section, the surcharge is equal to 0.052 percent. The surcharge is added to the rates provided in RCW 82.04.260(12) (a), (b), (c), and (d).

(2) All receipts from the surcharge imposed under this section must be deposited into the forest and fish support account created in RCW 76.09.405, with any receipts above eight million dollars per biennium specifically used as additional funding for tribal participation grants.

(3) (a) The surcharge imposed under this section is suspended if:

(i) Before July 1, 2024, receipts from the surcharge total at least eight million five hundred thousand dollars during any fiscal biennium;

(ii) Between July 1, 2024, through June 30, 2029, receipts from the surcharge total at least nine million dollars during any fiscal biennium; and

(iii) After June 30, 2029, the receipts from the surcharge total at least nine million five hundred thousand dollars during any fiscal biennium.

(b) The suspension of the surcharge under this subsection (3) takes effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge total the values specified in this subsection (3) during the fiscal biennium. The surcharge is imposed again at the beginning of the following fiscal biennium.

(4) This section expires July 1, 2045. [2021 c 145 s 8; 2019 c 336 s 5; 2017 c 323 s 501; 2010 1st sp.s. c 23 s 510. Prior: 2007 c 54 s 7; 2007 c 48 s 4; 2006 c 300 s 2.]

**Finding—Intent—2019 c 336:** "The legislature finds that while many parts of the state are thriving economically, some rural and distressed communities have struggled to keep pace. These communities represent significant opportunity for economic growth and innovation. However, businesses and entrepreneurs often find it difficult to obtain the capital they need to expand and grow in these areas. Therefore, it is the intent of the legislature to study the creation of a program to incentivize private investments and job creation in rural and distressed communities while ensuring no loss of revenue to the state." [2019 c 336 s 1.]

**Findings—2019 c 336:** "(1) The legislature finds that the Washington state forest practices habitat conservation plan was approved in 2006 by the United States fish and wildlife service and the national oceanic and atmospheric administration's marine fisheries service. The legislature further finds that the conservation plan protects habitat of aquatic species, supports economically viable and healthy forests, and creates regulatory stability for landowners. The legislature further finds that funding for the adaptive management program and participation grants are required to implement the forest and fish agreement and meet the goals of the conservation plan. The legislature further finds that the surcharge on the timber products business and occupation tax rate was agreed to by the forest products industry, tribal leaders, and stakeholders as a way to provide funding and safeguard the future of the conservation plan. The legislature further finds that the forestry industry assumed significant financial obligation with the enactment of this conservation plan, in exchange

for operational certainty under the endangered species act. Therefore, the legislature concludes that the timber products business and occupation tax rate and the surcharge should continue until the expiration date of the forest and fish agreement, in 2056.

(2) The legislature finds that Washington has one of the strongest economies in the country. However, the local economies in some rural counties continue to struggle. The legislature further finds that the economic prosperity of our state must be shared by all of our communities. The legislature further finds that forest product sectors provide family-wage jobs in economically struggling areas of the state. The legislature further finds that in 2017 the Washington forest products industry, directly and indirectly, employed one hundred one thousand workers, earning 5.5 billion dollars in wages. Therefore, the legislature concludes that the forest products industries support our local rural economies and contribute towards the effort to lower unemployment rates across the state, especially in rural areas." [2019 c 336 s 3.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Savings—2007 c 48:** "The expiration of RCW 82.04.261 does not affect any existing right acquired or liability or obligation incurred under that section or under any rule or order adopted under that section, nor does it affect any proceeding instituted under that section." [2007 c 48 s 8.]

**Effective date—2007 c 48:** See note following RCW 82.04.260.

**Effective dates—Contingent effective date—2006 c 300:** "(1) Sections 1, 3, 4 through 6, and 8 through 12 of this act take effect July 1, 2006.

(2) Section 2 of this act takes effect July 1, 2007.

(3) Section 7 of this act takes effect if the contingency in \*section 12 of this act occurs." [2006 c 300 s 13.]

**\*Reviser's note:** See RCW 82.32.790.

**RCW 82.04.263 Tax on cleaning up radioactive waste and other by-products of weapons production and nuclear research and development.**

(1) Upon every person engaging within this state in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business multiplied by the rate of 0.471 percent.

(2) For the purposes of this chapter, "cleaning up radioactive waste and other by-products of weapons production and nuclear research and development" means:

(a) The activities of handling, storing, treating, immobilizing, stabilizing, or disposing of radioactive waste, radioactive tank waste and capsules, nonradioactive hazardous solid and liquid wastes, or spent nuclear fuel;

(b) Spent nuclear fuel conditioning;

(c) Removal of contamination in soils and groundwater;

(d) Decontamination and decommissioning of facilities; and

(e) Services supporting the performance of cleanup. For the purposes of this subsection (2)(e), a service supports the performance of cleanup if it:

(i) Is within the scope of work under a clean-up contract with the United States department of energy; or

(ii) Assists in the accomplishment of a requirement of a clean-up project undertaken by the United States department of energy under a subcontract entered into with the prime contractor or another subcontractor in furtherance of a clean-up contract between the United States department of energy and a prime contractor.

(3) A service does not assist in the accomplishment of a requirement of a clean-up project undertaken by the United States department of energy if the same services are routinely provided to businesses not engaged in clean-up activities, except that the following services are always deemed to contribute to the accomplishment of a requirement of a clean-up project undertaken by the United States department of energy:

(a) Information technology and computer support services;

(b) Services rendered in respect to infrastructure; and

(c) Security, safety, and health services.

(4) The legislature intends that the examples provided in this subsection be used as a guideline when determining whether a service is "routinely provided to businesses not engaged in clean-up activities" as that phrase is used in subsection (3) of this section.

(a) The radioactive waste clean-up classification does not apply to general accounting services but does apply to performance audits performed for persons cleaning up radioactive waste.

(b) The radioactive waste clean-up classification does not apply to general legal services but does apply to those legal services that assist in the accomplishment of a requirement of a clean-up project undertaken by the United States department of energy. Thus, legal services provided to contest any local, state, or federal tax liability or to defend a company against a workers' compensation claim arising from a worksite injury do not qualify for the radioactive waste clean-up classification. But, legal services related to the resolution of a contractual dispute between the parties to a clean-up contract between the United States department of energy and a prime contractor do qualify.

(c) General office janitorial services do not qualify for the radioactive waste clean-up classification, but the specialized cleaning of equipment exposed to radioactive waste does qualify.

[2009 c 469 s 202; 1996 c 112 s 3.]

**Finding—Intent—2009 c 469:** "(1) The legislature finds that the cleaning up of radioactive waste at the Hanford site is crucial to the environment in this state. The legislature intends to include services

supporting the cleanup within the radioactive waste clean-up business and occupation tax classification, but it is not the legislature's intent to extend the radioactive waste clean-up classification to all business activities conducted at the Hanford site or performed for persons engaged in the performance of cleanup.

(2) It is the legislature's intent in enacting this legislation to ensure that the radioactive waste clean-up business and occupation tax classification applies to all services contributing to the performance of a clean-up project at the Hanford site other than services that are routinely provided to any business, including businesses that are not engaged in clean-up activities." [2009 c 469 s 201.]

**Effective date—1996 c 112:** See note following RCW 82.04.050.

**RCW 82.04.270 Tax on wholesalers.** Upon every person engaging within this state in the business of making sales at wholesale, except persons taxable as wholesalers under other provisions of this chapter; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of 0.484 percent. [2004 c 24 s 5; 2003 2nd sp.s. c 1 s 5; 2001 1st sp.s. c 9 s 3; (2001 1st sp.s. c 9 s 2 expired July 1, 2001); 1999 c 358 s 2. Prior: 1999 c 358 s 1; 1998 c 343 s 2; 1998 c 329 s 1; 1998 c 312 s 6; 1994 c 124 s 2; 1993 sp.s. c 25 s 105; 1981 c 172 s 4; 1971 ex.s. c 281 s 6; 1971 ex.s. c 186 s 4; 1969 ex.s. c 262 s 37; 1967 ex.s. c 149 s 11; 1961 c 15 s 82.04.270; prior: 1959 ex.s. c 5 s 3; 1955 c 389 s 47; prior: 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Intent—Effective date—2004 c 24:** See notes following RCW 82.04.2909.

**Finding—2003 2nd sp.s. c 1:** See note following RCW 82.04.4461.

**Effective dates—2001 1st sp.s. c 9:** See note following RCW 82.04.298.

**Expiration dates—2001 1st sp.s. c 9:** See note following RCW 82.04.290.

**Effective date—1999 c 358 s 2:** "Section 2 of this act takes effect July 1, 2001." [1999 c 358 s 23.]

**Effective date—1999 c 358 ss 1 and 3-21:** See note following RCW 82.04.3651.

**Effective date—1998 c 343:** See note following RCW 82.04.272.

**Effective date—1998 c 329:** "This act takes effect July 1, 1998." [1998 c 329 s 2.]

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Effective dates—1981 c 172:** See note following RCW 82.04.240.

**Effective date—1971 ex.s. c 186:** See note following RCW 82.04.110.

**RCW 82.04.272 Tax on warehousing and reselling prescription drugs.** (1) Upon every person engaging within this state in the business of warehousing and reselling drugs for human use pursuant to a prescription; as to such persons, the amount of the tax shall be equal to the gross income of the business multiplied by the rate of 0.138 percent.

(2) For the purposes of this section:

(a) "Prescription" and "drug" have the same meaning as in RCW 82.08.0281; and

(b) "Warehousing and reselling drugs for human use pursuant to a prescription" means the buying of drugs for human use pursuant to a prescription from a manufacturer or another wholesaler, and reselling of the drugs to persons selling at retail or to hospitals, clinics, health care providers, or other providers of health care services, by a wholesaler or retailer who is registered with the federal drug enforcement administration and licensed by the pharmacy quality assurance commission. [2013 c 19 s 127; 2003 c 168 s 401; 1998 c 343 s 1.]

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Effective date—1998 c 343:** "This act takes effect July 1, 2001." [1998 c 343 s 6.]

**RCW 82.04.280 Tax on printers, publishers, highway contractors, extracting or processing for hire, cold storage warehouse or storage warehouse operation, insurance general agents, radio and television broadcasting, government contractors—Cold storage warehouse defined—Storage warehouse defined—Periodical or magazine defined.** (1) Upon every person engaging within this state in the business of: (a) Printing materials other than newspapers, and of publishing periodicals or magazines; (b) building, repairing or improving any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (c)

extracting for hire or processing for hire, except persons taxable as extractors for hire or processors for hire under another section of this chapter; (d) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (e) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW; (f) radio and television broadcasting, but excluding revenues from network, national, and regional advertising computed either: (i) As a standard deduction that the department must publish by rule by September 30, 2020, and by September 30th of every fifth year thereafter, based on the national average thereof as reported by the United States census bureau's economic census; or (ii) in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the broadcasting station's total audience as measured by the .5 millivolt/meter signal strength contour for AM radio, the one millivolt/meter or sixty dBu signal strength contour for FM radio, the twenty-eight dBu signal strength contour for television channels two through six, the thirty-six dBu signal strength contour for television channels seven through thirteen, and the forty-one dBu signal strength contour for television channels fourteen through sixty-nine with delivery by wire, satellite, or any other means, if any; (g) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

(b) "Storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. "Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under RCW 82.04.272 is conducted.

(c) "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication. [2019 c 449 s 1; 2017 c 323 s 508. Prior: (2010 c 106 s 206 repealed by 2017 c 323 s 510); 2010 c 106 s 205; (2009 c 461 s 3 repealed by 2017 c 323 s 510); 2009 c 461 s 2; (2006 c 300 s 7 repealed by 2017 c 323 s 510); 2006 c 300 s 6; 2004 c 24 s 6; (2003 c 149 s 4 repealed by 2017 c 323 s 510); 1998 c 343 s 3; 1994 c 112 s 1; 1993 sp.s. c 25 s 303; 1993 sp.s. c 25 s 106; 1986 c 226 s 2; 1983 c 132 s 1; 1975 1st ex.s. c 90 s 3; 1971 ex.s. c 299 s 5; 1971 ex.s. c 281 s 7; 1970 ex.s. c 8 s 2; prior: 1969 ex.s. c 262 s 38; 1969 ex.s. c 255 s 5; 1967 ex.s. c 149 s 13; 1963 c 168 s 1; 1961 c 15 s 82.04.280; prior: 1959 ex.s. c 5 s 4; 1959 ex.s. c 3 s 4; 1955 c 389 s

48; prior: 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 228 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Contingent effective date—2010 c 106 ss 205 and 206:** "If section 206 of this act takes effect, section 205 of this act expires on the date section 206 of this act takes effect." [2010 c 106 s 413.]

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Effective date—Contingent effective date—2009 c 461:** "(1) Except as provided in subsection (2) of this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009.

(2) Section 3 of this act takes effect if the contingency in \*section 9 of this act occurs." [2009 c 461 s 10.]

**\*Reviser's note:** See RCW 82.32.790.

**Contingent expiration date—2009 c 461:** "Section 2 of this act expires on the date that section 3 of this act takes effect." [2009 c 461 s 11.]

**Contingent expiration date—2006 c 300 s 6:** "Section 6 of this act expires on the date that section 7 of this act takes effect." [2006 c 300 s 14.]

**Effective dates—Contingent effective date—2006 c 300:** See note following RCW 82.04.261.

**Intent—Effective date—2004 c 24:** See notes following RCW 82.04.2909.

**Findings—Intent—2003 c 149:** See note following RCW 82.04.426.

**Effective date—1998 c 343:** See note following RCW 82.04.272.

**Retroactive application—1994 c 112 s 1:** "Section 1 of this act shall apply retroactively to July 1, 1993." [1994 c 112 s 5.]

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Effective date—1986 c 226:** See note following RCW 82.16.010.

**Application to preexisting contracts—1975 1st ex.s. c 90:** See note following RCW 82.12.010.

**Effective date—1975 1st ex.s. c 90:** See note following RCW 82.04.050.

**Effective dates—Severability—1971 ex.s. c 299:** See notes following RCW 82.04.050.

**RCW 82.04.285 Tax on contests of chance.** (1) Upon every person engaging within this state in the business of operating contests of chance; as to such persons, the amount of tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of 1.5 percent.

(2) An additional tax is imposed on those persons subject to tax in subsection (1) of this section. The amount of the additional tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of 0.2 percent through June 30, 2024, and 0.26 percent thereafter. The money collected under this subsection (2) shall be deposited in the problem gambling account created in RCW 41.05.751. This subsection does not apply to businesses operating contests of chance when the gross income from the operation of contests of chance is less than \$50,000 per year.

(3) (a) For the purpose of this section, "contests of chance" means any contests, games, gaming schemes, or gaming devices, other than the state lottery as defined in RCW 67.70.010, in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor in the outcome. The term includes social card games, bingo, raffle, and punchboard games, and pull-tabs as defined in chapter 9.46 RCW.

(b) The term does not include: (i) Race meet for the conduct of which a license must be secured from the Washington horse racing commission, (ii) "amusement game" as defined in RCW 9.46.0201, or (iii) any activity that is not subject to regulation by the gambling commission.

(4) "Gross income of the business" does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes. [2023 c 284 s 4; 2014 c 97 s 303; 2005 c 369 s 5.]

**Findings—Intent—Effective date—2023 c 284:** See notes following RCW 41.05.750.

**Findings—Intent—Severability—Effective date—2005 c 369:** See notes following RCW 41.05.750.

**RCW 82.04.286 Tax on horse races.** (1) Upon every person engaging within this state in the business of conducting race meets for the conduct of which a license must be secured from the Washington horse racing commission; as to such persons, the amount of tax with respect to the business of parimutuel wagering is equal to the gross income of the business derived from parimutuel wagering multiplied by the rate of 0.2 percent through June 30, 2024, and 0.26 percent thereafter. The money collected under this section shall be deposited in the problem gambling account created in RCW 41.05.751.

(2) For purposes of this section, "gross income of the business" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW.

(3) The tax imposed under this section is in addition to any tax imposed under chapter 67.16 RCW. [2023 c 284 s 5; 2005 c 369 s 6.]

**Findings—Intent—Effective date—2023 c 284:** See notes following RCW 41.05.750.

**Findings—Intent—Severability—Effective date—2005 c 369:** See notes following RCW 41.05.750.

**RCW 82.04.287 Tax on alternative jet fuel.** (1) Upon every person engaging within the state in the business of manufacturing alternative jet fuel; as to such persons, the amount of the tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) Upon every person engaging in making sales, at retail or wholesale, of manufactured alternative jet fuel; as to such persons, the amount of the tax with respect to such business is equal to the gross proceeds of sales of the alternative jet fuel, multiplied by the rate of 0.275 percent.

(3) For the purposes of this section, "alternative jet fuel" means a fuel that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure and that has lower greenhouse gas emissions based on a full life-cycle analysis when compared to conventional petroleum jet fuel for which it is capable as serving as a substitute, as certified by the department of ecology using the methods for determining the carbon intensity of fuels under chapter 70A.535 RCW. "Alternative jet fuel" includes jet fuels derived from coprocessed feedstocks at a conventional petroleum refinery as certified by the department of ecology using the methods for determining the carbon intensity of fuels under chapter 70A.535 RCW.

(4) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(5) (a) The tax rate under subsections (1) and (2) of this section takes effect on the first day of the first calendar quarter following the month in which the department receives notice from the department of ecology that there are one or more facilities operating in this state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year, as required in RCW 70A.535.150.

(b) The tax rate expires nine calendar years after the close of the calendar year in which the tax rate under subsections (1) and (2) of this section takes effect. [2023 c 232 s 9.]

**Tax preference performance statement—2023 c 232 ss 9-12:** "(1) This section is the tax preference performance statement for the tax preferences contained in sections 9 through 12, chapter 232, Laws of 2023. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to

create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness as indicated in RCW 82.32.808(2)(b).

(3) It is the legislature's specific public policy objective to encourage the production and use of alternative jet fuels. It is also the legislature's intent to support the development of the alternative jet fuels industry in Washington by providing targeted tax relief for such businesses.

(4) The legislature intends to extend the expiration date of the tax preferences contained in this act if a review finds:

(a) An increase in the production and use of alternative jet fuels in Washington by persons claiming the tax preferences in this act;

(b) That the production and use of alternative jet fuels in this state does not result in additional pollution including, but not limited to, pollution from per- and polyfluoroalkyl substances, noxious gases, ultrafine particles, lead, or other metals; and

(c) That the alternative jet fuel industry has created measurable economic growth in Washington.

(5) The review conducted by the joint legislative audit and review committee must include a racial equity analysis on air travel-related pollution in communities near an international airport owned by a port district in a county with a population greater than 1,500,000.

(6) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may access and use data from an international airport owned by a port district in a county with a population greater than 1,500,000, the University of Washington, reports compiled by the Washington State University pursuant to section 7 of this act, and any other data collected by the state as it deems necessary.

(7) The joint legislative audit and review committee must complete a preliminary report by December 1, 2032." [2023 c 232 s 8.]

**Effective date—2023 c 232 ss 9-12:** "Sections 9 through 12 of this act take effect July 1, 2024." [2023 c 232 s 15.]

**Automatic expiration date exemption—2023 c 232:** "RCW 82.32.805 does not apply to this act." [2023 c 232 s 14.]

**Intent—2023 c 232:** See note following RCW 70A.535.010.

**RCW 82.04.290 Tax on service and other activities.** (1) Upon every person engaging within this state in the business of providing qualifying international investment management services, as to such persons, the amount of tax with respect to such business is equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2)(a) Upon every person engaging within this state in any business activity other than or in addition to an activity taxed explicitly under another section in this chapter or subsection (1) or (3) of this section; as to such persons the amount of tax on account

of such activities is equal to the gross income of the business multiplied by the rate of:

- (i) 1.75 percent; or
- (ii) 1.5 percent for:

(A) Any person subject to the surcharge imposed under RCW 82.04.299;

(B) Any person whose gross income of the business subject to the tax imposed under this subsection (2), for the immediately preceding calendar year, was less than one million dollars, unless (I) the person is affiliated with one or more other persons, and (II) the aggregate gross income of the business subject to the tax imposed under this subsection (2) for all affiliated persons was greater than or equal to one million dollars for the immediately preceding calendar year; and

(C) Hospitals as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW. This subsection (2) (a) (ii) (C) must not be construed as modifying RCW 82.04.260(10).

(b) This subsection (2) includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his or her principal or supplier to be used for informational, educational, and promotional purposes is not considered a part of the agent's remuneration or commission and is not subject to taxation under this section.

(c) 14.3 percent of the revenues collected under (a) (i) of this subsection (2) must be deposited into the workforce education investment account created in RCW 43.79.195.

(d) (i) To aid in the effective administration of this subsection (2), the department may require a person claiming to be subject to the 1.5 percent tax rate under (a) (ii) (B) of this subsection (2) to identify all of the person's affiliates, including their department tax registration number or unified business identifier number, as may be applicable, or to certify that the person is not affiliated with any other person. Requests under this subsection (2) (d) (i) must be in writing and may be made electronically.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that a person, with intent to evade the additional taxes due under the 1.75 percent tax rate in (a) (i) of this subsection (2), failed to provide the department with complete and accurate information in response to a written request under (d) (i) of this subsection (2) within thirty days of such request, the person is ineligible for the 1.5 percent tax rate in (a) (ii) of this subsection (2) for the entire current calendar year and the following four calendar years. However, the department must waive the provisions of this subsection (2) (d) (ii) for any tax reporting period that the person is otherwise eligible for the 1.5 percent tax rate in (a) (ii) of this subsection (2) if (A) the department has not previously determined that the person failed to fully comply with (d) (i) of this subsection (2), and (B) within thirty days of the notice of additional tax due as a result of the person's failure to fully comply with (d) (i) of this subsection (2) the department determines that the person has come into full compliance with (d) (i) of this subsection

(2). This subsection (2)(d) applies only with respect to persons claiming entitlement to the 1.5 percent tax rate solely by reason of (a)(ii)(B) of this subsection (2).

(e) For the purposes of (a)(ii)(B) of this subsection (2), if a taxpayer is subject to the reconciliation provisions of RCW 82.04.462(4), and calculates gross income of the business subject to the tax imposed under this subsection (2) for the immediately preceding calendar year, or aggregate gross income of the business subject to the tax imposed under this subsection (2) for the immediately preceding calendar year for all affiliated persons, based on incomplete information, the taxpayer must correct the reporting for the current calendar year when complete information for the immediately preceding calendar year is available.

(f) For purposes of this subsection (2), the definitions in this subsection (2)(f) apply:

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

(ii) "Control" means the possession, directly or indirectly, of more than eighty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(3)(a) Until July 1, 2040, upon every person engaging within this state in the business of performing aerospace product development for others, as to such persons, the amount of tax with respect to such business is equal to the gross income of the business multiplied by a rate of 0.9 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.534.

(c) "Aerospace product development" has the meaning as provided in RCW 82.04.4461. [2020 c 2 s 3; 2019 c 426 s 2; 2014 c 97 s 404; (2014 c 97 s 403 expired July 9, 2014); 2013 3rd sp.s. c 2 s 8; 2013 c 23 s 314; 2011 c 174 s 101; 2008 c 81 s 6; 2005 c 369 s 8; 2004 c 174 s 2; 2003 c 343 s 2; 2001 1st sp.s. c 9 s 6; (2001 1st sp.s. c 9 s 4 expired July 1, 2001). Prior: 1998 c 343 s 4; 1998 c 331 s 2; 1998 c 312 s 8; 1998 c 308 s 5; 1998 c 308 s 4; 1997 c 7 s 2; 1996 c 1 s 2; 1995 c 229 s 3; 1993 sp.s. c 25 s 203; 1985 c 32 s 3; 1983 2nd ex.s. c 3 s 2; 1983 c 9 s 2; 1983 c 3 s 212; 1971 ex.s. c 281 s 8; 1970 ex.s. c 65 s 4; 1969 ex.s. c 262 s 39; 1967 ex.s. c 149 s 14; 1963 ex.s. c 28 s 2; 1961 c 15 s 82.04.290; prior: 1959 ex.s. c 5 s 5; 1955 c 389 s 49; prior: 1953 c 195 s 2; 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

**Application—2020 c 2 s 3:** "Section 3 of this act applies beginning with gross income of the business, as defined in RCW 82.04.080, received or accrued by taxpayers, on or after April 1, 2020." [2020 c 2 s 9.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2020 c 2:** "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2020 c 2 s 6.]

**Effective dates—2020 c 2:** "(1) Except as otherwise provided in this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 10, 2020].

(2) Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2020." [2020 c 2 s 7.]

**Findings—Intent—2019 c 426 ss 2 and 3:** "In 1995, the legislature enacted a business and occupation tax rate for persons providing international investment management services. The legislature finds that the original intent of this tax rate was to reduce a competitive disadvantage for a limited number of firms providing international investment management services. The fiscal note for the bill stated that "only a very limited taxpayer group would benefit from the reduced rate." The legislature further finds that as a result of the adoption of economic nexus; a single factor, market-based apportionment methodology; and significant ambiguity in the statute governing the qualifications for the tax rate; a much larger number of businesses are claiming the tax rate than was contemplated in 1995. Therefore, the legislature intends in sections 2 and 3 of this act to clarify the scope of activities and persons eligible for the tax rate to more closely align with the legislature's original intent." [2019 c 426 s 1.]

**Automatic expiration date and tax preference performance statement exemption—2019 c 426 ss 2 and 3:** "The provisions of RCW 82.32.805 and 82.32.808 do not apply to sections 2 and 3 of this act." [2019 c 426 s 9.]

**Effective date—2019 c 426 ss 2 and 3:** "Sections 2 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2019." [2019 c 426 s 10.]

**Contingent expiration date—2014 c 97 ss 401 and 403:** See note following RCW 82.04.250.

**Contingent effective date—2013 3rd sp.s. c 2:** See RCW 82.32.850.

**Findings—Intent—2013 3rd sp.s. c 2:** See note following RCW 82.32.850.

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**Findings—Intent—Severability—Effective date—2005 c 369:** See notes following RCW 41.05.750.

**Effective date—2004 c 174:** See note following RCW 82.04.2908.

**Expiration dates—2001 1st sp.s. c 9:** "(1) Sections 2 and 4 of this act expire July 1, 2001.

(2) Section 5 of this act expires July 1, 2003.

(3) Section 8 of this act expires July 22, 2001." [2001 1st sp.s. c 9 s 10.]

**Effective dates—2001 1st sp.s. c 9:** See note following RCW 82.04.298.

**Effective date—1998 c 343:** See note following RCW 82.04.272.

**Effective date—1998 c 331:** See note following RCW 82.04.2907.

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**Effective dates—1998 c 308:** See note following RCW 82.04.050.

**Savings—Effective date—1997 c 7:** See notes following RCW 82.04.255.

**Effective date—1996 c 1:** See note following RCW 82.04.255.

**Effective date—1995 c 229:** See note following RCW 82.04.293.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Construction—Severability—Effective date—1983 c 9:** See notes following RCW 82.04.255.

**RCW 82.04.29001 Creation and distribution of custom software—Customization of prewritten computer software—Taxable services.** (1) The creation and distribution of custom software is a service taxable under RCW 82.04.290(2). Duplication of the software for the same person, or by the same person for its own use, does not change the character of the software.

(2) The customization of prewritten computer software is a service taxable under RCW 82.04.290(2). [2003 c 168 s 602; 1998 c 332 s 4.]

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Findings—Intent—1998 c 332:** "The legislature finds that the creation and customization of software is an area not fully addressed in our excise tax statutes, and that certainty of tax treatment is essential to the industry and consumers. Therefore, the intent of this act is to make the tax treatment of software clear and certain for developers, programmers, and consumers." [1998 c 332 s 1.]

**Effective date—1998 c 332:** "This act takes effect July 1, 1998." [1998 c 332 s 9.]

**RCW 82.04.29002 Additional tax on certain business and service activities.** (1) Beginning May 1, 2010, through June 30, 2013, an additional rate of tax of 0.30 percent is added to the rate provided for in RCW 82.04.255, 82.04.285, and 82.04.290(2)(a).

(2)(a) The additional rate in subsection (1) of this section does not apply to persons engaging within this state in business as a hospital. "Hospital" has the meaning provided in chapter 70.41 RCW but also includes any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(b) The additional rate in subsection (1) of this section does not apply to amounts received from performing scientific research and development services including but not limited to research and development in the physical, engineering, and life sciences (such as agriculture, bacteriological, biotechnology, chemical, life sciences, and physical science research and development laboratories or services). [2010 1st sp.s. c 23 s 1101.]

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.32.655.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.29004 Additional tax on financial institutions.** (1) Beginning January 1, 2020, in addition to any other taxes imposed under this chapter, an additional tax is imposed on specified financial institutions. The additional tax is equal to the gross income of the business taxable under RCW 82.04.290(2) multiplied by the rate of 1.2 percent.

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

(a) "Affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person. For purposes of this subsection (2)(a), "control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(b) "Consolidated financial institution group" means all financial institutions that are affiliated with each other.

(c) "Consolidated financial statement" means a consolidated financial institution group's consolidated reports of condition and income filed with the federal financial institutions examination council, or successor agency.

(d) "Financial institution" means:

(i) Any corporation or other business entity chartered under Titles 30A, 30B, 31, 32, and 33 RCW, or registered under the federal bank holding company act of 1956, as amended, or registered as a savings and loan holding company under the federal national housing act, as amended;

(ii) A national bank organized and existing as a national bank association pursuant to the provisions of the national bank act, 12 U.S.C. Sec. 21 et seq.;

(iii) A savings association or federal savings bank as defined in the federal deposit insurance act, 12 U.S.C. Sec. 1813(b)(1);

(iv) Any bank or thrift institution incorporated or organized under the laws of any state;

(v) Any corporation organized under the provisions of 12 U.S.C. Sec. 611 through 631;

(vi) Any agency or branch of a foreign depository as defined in 12 U.S.C. Sec. 3101 that is not exempt under RCW 82.04.315;

(vii) A production credit association organized under the federal farm credit act of 1933, all of whose stock held by the federal production credit corporation has been retired;

(viii) Any corporation or other business entity who receives gross income taxable under RCW 82.04.290, and whose voting interests are more than fifty percent owned, directly or indirectly, by any person or business entity described in (d)(i) through (vii) of this subsection other than an insurance company liable for the insurance premiums tax under RCW 48.14.020 or any other company taxable under chapter 48.14 RCW;

(ix)(A) A corporation or other business entity that receives more than fifty percent of its total gross income for federal income tax purposes from finance leases. For purposes of this subsection, a "finance lease" means a lease that meets two requirements:

(I) It is the type of lease permitted to be made by national banks (see 12 U.S.C. Sec. 24(7) and (10), comptroller of the currency regulations, part 23, leasing (added by 56 C.F.R. Sec. 28314, June 20, 1991, effective July 22, 1991), and regulation Y of the federal reserve system 12 C.F.R. Part 225.25, as amended); and

(II) It is the economic equivalent of an extension of credit, i.e., the lease is treated by the lessor as a loan for federal income tax purposes. In no event does a lease qualify as an extension of credit where the lessor takes depreciation on such property for federal income tax purposes.

(B) For this classification to apply, the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than fifty percent requirement;

(x) Any other person or business entity, other than an insurance general agent taxable under RCW 82.04.280(1)(e), an insurance business exempt from the business and occupation tax under RCW 82.04.320, a real estate broker taxable under RCW 82.04.255, a securities dealer or international investment management company taxable under RCW 82.04.290(2), that receives more than fifty percent of its gross receipts from activities that a person described in (d)(ii) through (vii) and (ix) of this subsection is authorized to transact.

(e)(i) "Specified financial institution" means a financial institution that is a member of a consolidated financial institution group that reported on its consolidated financial statement for the previous calendar year annual net income of at least one billion dollars, not including net income attributable to noncontrolling interests, as the terms "net income" and "noncontrolling interest" are used in the consolidated financial statement.

(ii) If financial institutions are no longer required to file consolidated financial statements, "specified financial institution" means any person that was subject to the additional tax in this section in at least two of the previous four calendar years.

(3) The department must notify the fiscal committees of the legislature if financial institutions are no longer required to file consolidated financial statements.

(4) To aid in the effective administration of the additional tax imposed in this section, the department may require a person believed

to be a specified financial institution to disclose whether it is a member of a consolidated financial institution group and, if so, to identify all other members of its consolidated financial institution group. A person failing to comply with this subsection is deemed to have intended to evade tax payable under this section and is subject to the penalty in RCW 82.32.090(7) on any tax due under this section by the person and any financial institution affiliated with the person.

(5) Taxes collected under this section must be deposited into the general fund. [2019 c 420 s 2.]

**Finding—2019 c 420:** "The legislature finds that in the decade since the great recession, some economic sectors have rebounded, stronger than ever, while many Washington families struggle to afford basic necessities, all while also carrying the burden of funding schools and essential services. The wealth disparity in the country between the wealthy few and the lowest income families is wider than in any other developed nation and continues to grow. Additionally, Washington's tax system disproportionately impacts those with the least ability to pay. As a percentage of household income, middle-income families in Washington pay two to four times the amount of taxes as compared to top earners in the state. Low-income Washington families pay six times more in taxes than the wealthiest residents. The legislature concludes that those wealthy few who have profited the most from the recent economic expansion can contribute to the essential services and programs all Washington families need." [2019 c 420 s 1.]

**RCW 82.04.29005 Tax on loan interest—2012 2nd sp.s. c 6.** (1) Amounts received as interest on loans originated by a person located in more than ten states, or an affiliate of such person, and primarily secured by first mortgages or trust deeds on nontransient residential properties are subject to tax under RCW 82.04.290(2) (a).

(2) For the purposes of this subsection [section], a person is located in a state if:

(a) The person or an affiliate of the person maintains a branch, office, or one or more employees or representatives in the state; and

(b) Such in-state presence allows borrowers or potential borrowers to contact the branch, office, employee, or representative concerning the acquiring, negotiating, renegotiating, or restructuring of, or making payments on, mortgages issued or to be issued by the person or an affiliate of the person.

(3) For purposes of this section:

(a) "Affiliate" means a person is affiliated with another person, and "affiliated" has the same meaning as in RCW 82.04.645; and

(b) "Interest" has the same meaning as in RCW 82.04.4292 and also includes servicing fees described in RCW 82.04.4292(4). [2012 2nd sp.s. c 6 s 101.]

**Existing rights, liabilities, or obligations—2012 2nd sp.s. c 6:** "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2012 2nd sp.s. c 6 s 701.]

**Effective dates—Contingent effective date—2012 2nd sp.s. c 6:**

"(1) Parts I, II, and V through VII of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2012.

(2) Section 302 of this act does not take effect if the contingency in subsection (3) of this section occurs.

(3) Section 303 of this act takes effect if Substitute House Bill No. 2530 or any other legislation repealing RCW 82.32.534 is enacted during the 2012 1st special session and signed into law.

(4) Parts III and IV of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 2, 2012]." [2012 2nd sp.s. c 6 s 703.]

**RCW 82.04.2905 Tax on providing day care. (Effective until October 1, 2024.)** Upon every person engaging within this state in the business of providing child care for periods of less than twenty-four hours; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.484 percent. [1998 c 312 s 7.]

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**RCW 82.04.2905 Tax on providing day care. (Effective October 1, 2024.)** (1) Except as provided in subsection (2) of this section, upon every person engaging within this state in the business of providing child care for periods of less than twenty-four hours, the amount of tax with respect to such business is equal to the gross proceeds derived from such sales multiplied by the rate of 0.484 percent.

(2) Until January 1, 2035, this chapter does not apply to amounts received by a child care provider for the care and supervision for periods of less than 24 hours of children:

(a) Under 13 years of age; or

(b) Under 19 years of age who have a verified special need or are under court supervision as determined by the department of children, youth, and families under chapter 43.216 RCW.

(3) The exemption under subsection (2) of this section applies only to persons primarily engaged in the business of providing child care. [2024 c 195 s 2; 1998 c 312 s 7.]

**Tax preference performance statement—2024 c 195 s 2:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 195, Laws of 2024. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to reduce the costs associated with providing child care by expanding the

business and occupation tax exemption for child care services to include income derived from the care and education of children up to age 12.

(4) If a review finds a reduction in the cost of providing child care and education, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state." [2024 c 195 s 1.]

**Effective date—2024 c 195:** "This act takes effect October 1, 2024." [2024 c 195 s 3.]

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**RCW 82.04.2906 Tax on certain chemical dependency services. (1)**

Upon every person engaging within this state in the business of providing intensive inpatient or recovery house residential treatment services for chemical dependency, certified by the department of social and health services, for which payment from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof is received as compensation for or to support those services; as to such persons the amount of tax with respect to such business shall be equal to the gross income from such services multiplied by the rate of 0.484 percent.

(2) If the persons described in subsection (1) of this section receive income from sources other than those described in subsection (1) of this section or provide services other than those named in subsection (1) of this section, that income and those services are subject to tax as otherwise provided in this chapter. [2003 c 343 s 1.]

**RCW 82.04.2907 Tax on royalties. (1)** Upon every person engaging within this state in the business of receiving income from royalties, the amount of tax with respect to the business is equal to the gross income from royalties multiplied by the rate of 1.5 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11). [2021 c 145 s 9; 2015 3rd sp.s. c 5 s 101; 2010 1st sp.s. c 23 s 107; (2010 1st sp.s. c 23 s 106 expired July 1, 2010); 2010 c 111 s 302; 2009 c 535 s 407; 2001 c 320 s 3; 1998 c 331 s 1.]

**Construction—2017 c 323:** See note following RCW 82.08.052.

**Effective dates—2015 3rd sp.s. c 5:** See note following RCW 82.08.052.

**Expiration date—2010 1st sp.s. c 23 ss 106, 901, and 1201:** "Sections 106, 901, and 1201 of this act expire July 1, 2010." [2010 1st sp.s. c 23 s 1710.]

**Effective date—2010 1st sp.s. c 23 ss 107, 601, 602, 702, 902, 1202, and 1401-1405:** "Parts VI, VII, and XIV and sections 107, 702, 902, and 1202 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2010." [2010 1st sp.s. c 23 s 1713.]

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Purpose—Retroactive application—Effective date—2010 c 111:** See notes following RCW 82.04.050.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Effective date—2001 c 320:** See note following RCW 11.02.005.

**Effective date—1998 c 331:** "This act takes effect July 1, 1998." [1998 c 331 s 3.]

**RCW 82.04.2908 Tax on provision of room and domiciliary care to assisted living facility residents.** (1) Upon every person engaging within this state in the business of providing room and domiciliary care to residents of an assisted living facility licensed under chapter 18.20 RCW, the amount of tax with respect to such business shall be equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) For the purposes of this section, "domiciliary care" has the meaning provided in RCW 18.20.020. [2012 c 10 s 70; 2005 c 514 s 302; 2004 c 174 s 1.]

**Application—2012 c 10:** See note following RCW 18.20.010.

**Effective date—2005 c 514:** See note following RCW 83.100.230.

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**Effective date—2004 c 174:** "This act takes effect July 1, 2004." [2004 c 174 s 8.]

**RCW 82.04.2909 Tax on aluminum smelters. (Expires January 1, 2027.)** (1) Upon every person who is an aluminum smelter engaging within this state in the business of manufacturing aluminum; as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of .2904 percent.

(2) Upon every person who is an aluminum smelter engaging within this state in the business of making sales at wholesale of aluminum manufactured by that person, as to such persons the amount of tax with respect to such business is equal to the gross proceeds of sales of the aluminum multiplied by the rate of .2904 percent.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires January 1, 2027. [2017 c 135 s 12; 2015 3rd sp.s. c 6 s 502; 2011 c 174 s 301. Prior: 2010 1st sp.s. c 2 s 1; 2010 c 114 s 108; 2006 c 182 s 1; 2004 c 24 s 3.]

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Findings—Tax preference performance statement—2015 3rd sp.s. c 6 ss 502-506:** "(1) The legislature finds that the aluminum industry in Washington employs over one thousand people. The legislature further finds that average annual wages and benefits for these employment positions exceed one hundred thousand dollars and that each of these employment positions indirectly generates an additional two to three jobs within the state. The legislature further finds that the aluminum industry generates substantial taxes for local jurisdictions. The legislature further finds that the aluminum industry was severely impacted by the global economic recession. The legislature further finds that the London metal exchange, where aluminum is traded as a commodity, is extremely volatile and substantially impacts the profitability of the aluminum industry. The legislature further finds that for the aforementioned reasons, the industry continues to struggle with profitability, putting the continued employment of its Washington workforce in jeopardy.

(2) (a) This subsection is the tax preference performance statement for the aluminum industry tax preferences in RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, and 82.12.022, as amended in this Part V. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes this tax preference as one intended to accomplish the general purposes indicated in RCW 82.32.808(2) (c) and (d).

(c) It is the legislature's specific public policy objective to promote the preservation of employment positions within the Washington aluminum manufacturing industry as the industry continues to grapple with the lingering effects of the economic recession and the volatility of the London metal exchange.

(d) To measure the effectiveness of the exemption provided in this Part V in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee must evaluate the changes in the number of statewide

employment positions for the aluminum industry in Washington." [2015 3rd sp.s. c 6 s 501.]

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Intent—2004 c 24:** "The legislature recognizes that the loss of domestic manufacturing jobs has become a national concern. Washington state has lost one out of every six manufacturing jobs since July 2000. The aluminum industry has long been an important component of Washington state's manufacturing base, providing family-wage jobs often in rural communities where unemployment rates are very high. The aluminum industry is electricity intensive and was greatly affected by the dramatic increase in electricity prices which began in 2000 and which continues to affect the Washington economy. Before the energy crisis, aluminum smelters provided about 5,000 direct jobs. Today they provide fewer than 1,000 direct jobs. For every job lost in that industry, almost three additional jobs are estimated to be lost elsewhere in the state's economy. It is the legislature's intent to preserve and restore family-wage jobs by providing tax relief to the state's aluminum industry.

The electric loads of aluminum smelters provide a unique benefit to the infrastructure of the electric power system. Under the transmission tariff of the Bonneville Power Administration, aluminum smelter loads, whether served with federal or nonfederal power, are subject to short-term interruptions that allow a higher import capability on the transmission interconnection between the northwest and California. These stability reserves allow more power to be imported in winter months, reducing the need for additional generation in the northwest, and would be used to prevent a widespread transmission collapse and blackout if there were a failure in the transmission interconnection between California and the northwest. It is the legislature's intent to retain these benefits for the people of the state." [2004 c 24 s 1.]

**Effective date—2004 c 24:** "This act takes effect July 1, 2004." [2004 c 24 s 15.]

**RCW 82.04.293 International investment management services—Definitions.** For purposes of RCW 82.04.290:

(1) A person is engaged in the business of providing qualifying international investment management services, if:

(a) Such person is engaged primarily in the business of providing investment management services;

(b) At least ten percent of the gross income of such person is derived from providing investment management services to any of the following:

(i) Collective investment funds commercially domiciled, as defined in RCW 82.56.010, outside the United States; or

(ii) Collective investment funds with at least ten percent of their investments located outside the United States;

(c) More than twenty-five percent of such person's employees are located in this state; and

(d) Such person is a member of an affiliated group that collectively has:

(i) Ten or more offices located in at least eight foreign countries;

(ii) At least five hundred full-time employees worldwide;

(iii) Worldwide gross revenue of more than four hundred million dollars during the entire current or immediately preceding calendar year; and

(iv) Average assets under management of more than two hundred billion dollars during the entire current or immediately preceding calendar year.

(2) An affiliate of a person engaged in the business of providing qualifying international investment management services is deemed to also be engaged in the business of providing qualifying international investment management services if the affiliate:

(a) Is primarily engaged in providing portfolio management, fund administration, fund distribution, or transfer agent services, or any combination of these activities, to, either directly or indirectly through such affiliate's affiliated group, any of the following:

(i) Collective investment funds commercially domiciled, as defined in RCW 82.56.010, outside the United States; or

(ii) Collective investment funds with at least ten percent of their investments located outside the United States; and

(b) Satisfies the requirement under subsection (1)(c) of this section.

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

(a)(i) "Affiliate" and "affiliated" mean a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(ii) For purposes of this subsection (3)(a), "control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(b) "Affiliated group" means any group of two or more persons that are all affiliated with each other.

(c) "Collective investment fund" includes:

(i) A mutual fund or other regulated investment company, as defined in section 851(a) of the internal revenue code of 1986, as amended;

(ii) An "investment company," as that term is used in section 3(a) of the investment company act of 1940, as well as any entity that would be an investment company for this purpose but for the exemptions contained in section 3(c) (1) or (11);

(iii) An "employee benefit plan," which includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the internal revenue code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law;

(iv) A fund maintained by a tax-exempt organization, as defined in section 501(c)(3) of the internal revenue code of 1986, as amended, for operating, quasi-endowment, or endowment purposes;

(v) Funds that are established for the benefit of such tax-exempt organizations, such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts; or

(vi) Collective investment funds similar to those described in (c)(i) through (v) of this subsection (3) created under the laws of a foreign jurisdiction.

(d) "Investment management services" means managing the collective assets of a collective investment fund by engaging, either directly or indirectly through such person's affiliated group, in all of the following activities: (i) Portfolio management; (ii) fund administration; (iii) fund distribution; and (iv) transfer agent services.

(4) Investments are located outside the United States if the underlying assets in which the investment constitutes a beneficial interest reside or are created, issued or held outside the United States.

(5) If a person engaged in the business of providing international investment management services no longer meets the Washington state employment eligibility requirements under subsection (1)(c) of this section, then an amount equal to the entire economic benefit accruing to the person in the current and immediately prior nine consecutive calendar years, or the consecutive years since July 1, 2019, whichever is less, as a result of the preferential tax rate under RCW 82.04.290(1) is immediately due and payable.

(6) The department must assess interest, but not penalties, on the amounts due under this section. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW and accrue until the taxes for which a tax preference has been used are repaid. [2019 c 426 s 3; 1997 c 7 s 3; 1995 c 229 s 1.]

**Findings—Intent—Automatic expiration date and tax preference performance statement exemption—Effective date—2019 c 426 ss 2 and 3:** See notes following RCW 82.04.290.

**Savings—Effective date—1997 c 7:** See notes following RCW 82.04.255.

**Effective date—1995 c 229:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 229 s 4.]

**RCW 82.04.294 Tax on manufacturers or wholesalers of solar energy systems. (Expires July 1, 2032.)** (1) Upon every person engaging within this state in the business of manufacturing solar energy systems using photovoltaic modules or stirling converters, or of manufacturing solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems; as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product

manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) Upon every person engaging within this state in the business of making sales at wholesale of solar energy systems using photovoltaic modules or stirling converters, or of solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems, manufactured by that person; as to such persons the amount of tax with respect to such business is equal to the gross proceeds of sales of the solar energy systems using photovoltaic modules or stirling converters, or of the solar grade silicon to be used exclusively in components of such systems, multiplied by the rate of 0.275 percent.

(3) Silicon solar wafers, silicon solar cells, thin film solar devices, solar grade silicon, or compound semiconductor solar wafers are "semiconductor materials" for the purposes of RCW 82.08.9651 and 82.12.9651.

(4) The definitions in this subsection apply throughout this section.

(a) "Compound semiconductor solar wafers" means a semiconductor solar wafer composed of elements from two or more different groups of the periodic table.

(b) "Module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(c) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(d) "Silicon solar cells" means a photovoltaic cell manufactured from a silicon solar wafer.

(e) "Silicon solar wafers" means a silicon wafer manufactured for solar conversion purposes.

(f) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(g) "Solar grade silicon" means high-purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors.

(h) "Stirling converter" means a device that produces electricity by converting heat from a solar source utilizing a stirling engine.

(i) "Thin film solar devices" means a nonparticipating substrate on which various semiconducting materials are deposited to produce a photovoltaic cell that is used to generate electricity.

(5) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) This section expires July 1, 2032. [2022 c 172 s 2; 2017 3rd sp.s. c 37 s 403; 2017 3rd sp.s. c 37 s 402; 2013 2nd sp.s. c 13 s 902; 2011 c 179 s 1; 2010 c 114 s 109; 2009 c 469 s 501; 2007 c 54 s 8; 2005 c 301 s 2.]

**Tax preference performance statement—2022 c 172 s 2:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 172, Laws of 2022. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a

private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to improve industry competitiveness and to create and retain jobs as indicated in RCW 82.32.808(2) (b) and (c).

(3) It is the legislature's specific public policy objective to maintain and grow jobs in the solar silicon industry. Trade disputes currently threaten employment in this sector. It is the legislature's intent to extend by five years the preferential tax rates for manufacturers and wholesalers of specific solar energy material and parts in order to maintain and grow jobs in the solar silicon industry.

(4) If a review finds that the number of people employed by the solar silicon industry in Washington is the same or more than in 2019, and that at least 60 percent of employees earn \$60,000 a year or more, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the department of revenue's annual survey data." [2022 c 172 s 3.]

**Effective date—2022 c 172:** "This act takes effect July 1, 2022." [2022 c 172 s 4.]

**Tax preference performance statement—2017 3rd sp.s. c 37 ss 402 and 403:** "(1) This section is the tax preference performance statement for the tax preferences contained in sections 402 and 403, chapter 37, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness and to create and retain jobs as indicated in RCW 82.32.808(2) (b) and (c).

(3) It is the legislature's specific public policy objective to maintain and grow jobs in the solar silicon industry. Trade disputes currently threaten employment in this sector. It is the legislature's intent to extend by ten years the preferential tax rates for manufacturers and wholesalers of specific solar energy material and parts in order to maintain and grow jobs in the solar silicon industry.

(4) If a review finds that the number of people employed by the solar silicon industry in Washington is the same or more than in 2015, and that at least sixty percent of employees earn sixty thousand dollars a year or more, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the department of revenue's annual survey data." [2017 3rd sp.s. c 37 s 401.]

**Effective date—2017 3rd sp.s. c 37 ss 401 and 402:** "Sections 401 and 402 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and take effect June 30, 2017." [2017 3rd sp.s. c 37 s 1403.]

**Effective date—2017 3rd sp.s. c 37 ss 101-104, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, 707, and 801-803:** See note following RCW 82.04.2404.

**Findings—Intent—2013 2nd sp.s. c 13:** "(1) The legislature finds that to attract and maintain clean energy technology manufacturing businesses, a competitive business climate is crucial. The legislature further finds that specific tax preferences can facilitate a positive business climate in Washington. The legislature further finds that businesses in the solar silicon industry have had to reduce employment due to global conditions. Therefore, the legislature intends to extend a preferential business and occupation tax rate to manufacturers and wholesalers of specific solar energy material and parts to maintain and grow jobs in the solar silicon industry.

(2) The joint legislative audit and review committee, as part of its tax preference review process, must assess the actual fiscal impact of this tax preference in relation to the fiscal estimate for the tax preference and assess changes in employment for firms claiming the preferential tax rate." [2013 2nd sp.s. c 13 s 901.]

**Effective date—2013 2nd sp.s. c 13:** See note following RCW 82.04.43393.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Effective date—2009 c 469:** See note following RCW 82.08.962.

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Findings—Intent—2005 c 301:** "The legislature finds that the welfare of the people of the state of Washington is positively impacted through the encouragement and expansion of key growth industries in the state. The legislature further finds that targeting tax incentives to focus on key growth industries is an important strategy to enhance the state's business climate.

A recent report by the Washington State University energy program recognized the solar electric industry as one of the state's important growth industries. It is of great concern that businesses in this industry have been increasingly expanding and relocating their operations elsewhere. The report indicates that additional incentives for the solar electric industry are needed in recognition of the unique forces and issues involved in business decisions in this industry.

Therefore, the legislature intends to enact comprehensive tax incentives for the solar electric industry that address activities of the manufacture of these products and to encourage these industries to locate in Washington. Tax incentives for the solar electric industry are important in both retention and expansion of existing business and attraction of new businesses, all of which will strengthen this growth industry within our state, will create jobs, and will bring many indirect benefits to the state." [2005 c 301 s 1.]

**Effective date—2005 c 301:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 301 s 6.]

**RCW 82.04.297 Internet access—Definitions.** (1) The provision of internet access is subject to tax under RCW 82.04.290(2).

(2) (a) Except as provided in (b) of this subsection, "internet" and "internet access" have the same meaning as those terms are defined in the federal internet tax freedom act, Title 47 U.S.C. Sec. 151 note, as existing on July 1, 2009.

(b) "Internet access" does not include telecommunications service purchased, used, or sold by a person that provides a service that enables users to connect to the internet to access content, information, or other services offered over the internet, to the extent such telecommunications service is purchased, used, or sold: (i) To provide such service; or (ii) to otherwise enable users to access content, information, or other services offered over the internet.

(3) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter. [2010 c 111 s 303; 2009 c 535 s 408; 2000 c 103 s 5; 1997 c 304 s 4.]

**Purpose—Retroactive application—Effective date—2010 c 111:** See notes following RCW 82.04.050.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Findings—Severability—Effective date—1997 c 304:** See notes following RCW 35.21.717.

**RCW 82.04.298 Tax on qualified grocery distribution cooperatives.** (1) The amount of tax with respect to a qualified grocery distribution cooperative's sales of groceries or related goods for resale, excluding items subject to tax under RCW 82.04.260(4), to customer-owners of the grocery distribution cooperative is equal to the gross proceeds of sales of the grocery distribution cooperative multiplied by the rate of one and one-half percent.

(2) A qualified grocery distribution cooperative is allowed a deduction from the gross proceeds of sales of groceries or related goods for resale, excluding items subject to tax under RCW 82.04.260(4), to customer-owners of the grocery distribution cooperative that is equal to the portion of the gross proceeds of sales for resale that represents the actual cost of the merchandise sold by the grocery distribution cooperative to customer-owners.

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

(a) "Grocery distribution cooperative" means an entity that sells groceries and related items to customer-owners of the grocery distribution cooperative and has customer-owners, in the aggregate, who own a majority of the outstanding ownership interests of the grocery distribution cooperative or of the entity controlling the

grocery distribution cooperative. "Grocery distribution cooperative" includes an entity that controls a grocery distribution cooperative.

(b) "Qualified grocery distribution cooperative" means:

(i) A grocery distribution cooperative that has been determined by a court of record of the state of Washington to be not engaged in wholesaling or making sales at wholesale, within the meaning of RCW 82.04.270 or any similar provision of a municipal ordinance that imposes a tax on gross receipts, gross proceeds of sales, or gross income, with respect to purchases made by customer-owners, and subsequently changes its form of doing business to make sales at wholesale of groceries or related items to its customer-owners; or

(ii) A grocery distribution cooperative that has acquired substantially all of the assets of a grocery distribution cooperative described in (b) (i) of this subsection.

(c) "Customer-owner" means a person who has an ownership interest in a grocery distribution cooperative and purchases groceries and related items at wholesale from that grocery distribution cooperative.

(d) "Controlling" means holding fifty percent or more of the voting interests of an entity and having at least equal power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract, or otherwise. [2011 c 2 s 204 (Initiative Measure No. 1107, approved November 2, 2010); 2010 1st sp.s. c 23 s 511; 2008 c 49 s 1; 2001 1st sp.s. c 9 s 1.]

**Findings—Construction—2011 c 2 (Initiative Measure No. 1107):**

See notes following RCW 82.08.0293.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective dates—2001 1st sp.s. c 9:** "(1) Sections 1, 2, 4, and 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [June 11, 2001].

(2) Sections 3 and 5 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2001.

(3) Section 6 of this act takes effect July 1, 2003.

(4) Section 7 [of this act] is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 22, 2001." [2001 1st sp.s. c 9 s 9.]

**RCW 82.04.299 Workforce education investment surcharge.** (1) (a) Beginning with business activities occurring on or after April 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses. The surcharge is equal to the gross income of

the business subject to the tax under RCW 82.04.290(2), multiplied by the rate of 1.22 percent.

(b) Except as provided in (e) of this subsection (1), in no case will the combined surcharge imposed under this subsection (1) paid by all members of an affiliated group be more than nine million dollars annually.

(c) For persons subject to the surcharge imposed under this subsection (1) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

(d) The surcharge imposed under this subsection (1) must be reported and paid on a quarterly basis in a manner as required by the department. Returns and amounts payable under this subsection (1) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

(e) (i) To aid in the effective administration of the surcharge in this subsection (1), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that one or more members of an affiliated group, with intent to evade the surcharge under this subsection (1), failed to fully comply with this subsection (1)(e), the department must assess against that person, or those persons collectively, a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or persons failed to fully comply with this subsection (1)(e). The penalty under this subsection (1)(e) is in lieu of and not in addition to the evasion penalty under RCW 82.32.090(7).

(f) For the purposes of this subsection (1) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including: Modifications to computer software or computer hardware; cloud computing services; or operating as a marketplace facilitator as defined by RCW 82.08.0531, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the immediately preceding calendar year. A

person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business. A person that is primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020, shall not be considered a select advanced computing business. For purposes of this subsection (1)(f)(vi), "primarily" is determined based on gross income of the business.

(2)(a) The workforce education investment surcharge under this section does not apply to:

(i) Any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW; or

(ii) A provider clinic offering primary care, multispecialty and surgical services, including behavioral health services, and any affiliate of the provider clinic if the affiliate is an organization that offers health care services or provides administrative support for a provider clinic, or is an independent practice association or accountable care organization.

(b) The exemptions under this subsection (2) do not apply to amounts received by any member of an affiliated group other than the businesses described in (a) of this subsection.

(c) For purposes of the exemption in (a)(ii) of this subsection:

(i) "Health care services" means services offered by health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(ii) "Primary care" means wellness and prevention services and the diagnosis and treatment of health conditions.

(3) Revenues from the surcharge under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

(4) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharge imposed in this section. [2022 c 170 s 1; 2022 c 56 s 4; 2020 c 2 s 4; 2019 c 406 s 74.]

**Reviser's note:** This section was amended by 2022 c 56 s 4 and by 2022 c 170 s 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Tax preference performance statement exemption—Automatic expiration date exemption—2022 c 170:** "RCW 82.32.805 and 82.32.808 do apply to this act." [2022 c 170 s 2.]

**Effective date—2022 c 170:** "This act takes effect July 1, 2022." [2022 c 170 s 3.]

**Retroactive application—2022 c 56 s 4:** "Section 4 of this act applies retroactively to January 1, 2020." [2022 c 56 s 14.]

**Retroactive application—2020 c 2 s 4:** "Section 4 of this act applies both prospectively and retroactively to January 1, 2020." [2020 c 2 s 8.]

**Tax preference performance statement exemption—Automatic expiration date exemption—Effective dates—2020 c 2:** See notes following RCW 82.04.290.

**Effective date—2019 c 406 s 74:** "Section 74 of this act takes effect January 1, 2020." [2019 c 406 s 77.]

**Findings—Intent—2019 c 406:** See note following RCW 43.79.195.

**Findings—Short title—2019 c 406:** See notes following RCW 28B.92.200.

**Findings—2019 c 406:** See note following RCW 28B.94.020.

**Findings—Intent—2019 c 406:** See note following RCW 28C.30.050.

**Findings—Intent—2019 c 406:** See note following RCW 43.216.135.

**RCW 82.04.301 Exemptions—Certain hospitals. (Expires January 1, 2030.)** (1) This chapter does not apply to any person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is owned by a county with a population greater than two million and that is managed by a state university.

(2) This section expires January 1, 2030. [2019 c 451 s 2.]

**Tax preference performance statement—2019 c 451:** "This section is the tax preference performance statement for the tax preference contained in section 2, chapter 451, Laws of 2019. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to provide tax relief to certain eligible businesses, as indicated in RCW 82.32.808(2)(e).

(2) The joint legislative audit and review committee is directed to evaluate the role eligible hospitals play as safety net providers, using metrics including but not limited to:

(a) The monetary value of the following services provided by each eligible hospital:

(i) Uncompensated care, by category of health care services; and

(ii) Medicaid and medicare funded treatment, by category of health care services;

(b) Percentage and count of all clients served by each eligible hospital, by category of health care services, who:

(i) Receive uncompensated care; and

(ii) Use medicare or medicaid to pay for treatment; and

(c) Percentage and count of all clients served in all hospitals in Washington who:

(i) Receive uncompensated care from an eligible hospital, by category of health care services;

(ii) Use medicare and medicaid to pay for treatment from an eligible hospital, by category of health care services; and

(iii) Receive uncompensated trauma care from an eligible hospital.

(3) For the purposes of this section, "eligible hospital" means a taxpayer claiming the tax preference provided in section 2, chapter 451, Laws of 2019.

(4) In order to obtain the data necessary to perform the review in this section, the joint legislative audit and review committee may refer to data from the health care authority and the department of health, as well as any other available data sources." [2019 c 451 s 1.]

**Effective date—2019 c 451:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 451 s 3.]

**RCW 82.04.310 Exemptions—Public utilities—Electrical energy—Natural or manufactured gas.**

(1) This chapter does not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of chapter 82.16 RCW including amounts derived from activities for which a deduction is allowed under RCW 82.16.050. The exemption in this subsection does not apply to sales of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas, by a gas distribution business, if such sales are exempt from the tax imposed under chapter 82.16 RCW as provided in RCW 82.16.310.

(2) This chapter does not apply to amounts received by any person for the sale of electrical energy for resale within or outside the state.

(3) (a) This chapter does not apply to amounts received by any person for the sale of natural or manufactured gas in a calendar year if that person sells within the United States a total amount of natural or manufactured gas in that calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year.

(b) For purposes of determining whether a person has sold within the United States a total amount of natural or manufactured gas in a calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year, the following transfers of gas are not considered to be the sale of natural or manufactured gas:

(i) The transfer of any natural or manufactured gas as a result of the acquisition of another business, through merger or otherwise; or

(ii) The transfer of any natural or manufactured gas accomplished solely to comply with federal regulatory requirements imposed on the pipeline transportation of such gas when it is shipped by a third-party manager of a person's pipeline transportation.

(4) Until January 1, 2031, this chapter does not apply to amounts received by any person in the form of credits against power contracts with the Bonneville power administration, or funds provided by the Bonneville power administration, for the purpose of implementing

energy conservation programs or demand-side management programs, so long as the amount that would otherwise be owed under this chapter is used for purposes of low-income ratepayer assistance or weatherization. The funds generated for low-income ratepayer assistance and weatherization under this subsection must be additive to and not supplant any existing funds used by the utility for low-income ratepayer assistance and weatherization. [2021 c 226 s 2; 2019 c 202 s 2; 2014 c 216 s 302; (2010 c 295 s 1 expired June 30, 2015); 2007 c 58 s 1; 2000 c 245 s 2; 1989 c 302 s 202; 1961 c 15 s 82.04.310. Prior: 1959 c 197 s 15; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**Tax preference performance statement—2021 c 226:** "This section is the tax preference performance statement for the tax preference contained in section 2, chapter 226, Laws of 2021. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a), and also to create low-income ratepayer tax and utility rate relief under RCW 82.32.808(2)(e).

(2) The legislature's specific public policy objectives are to:

(a) Increase investment in energy efficiency and conservation programs;

(b) Support efforts by utilities to acquire all cost-effective energy conservation and noncarbon-emitting energy resources as required under state law; and

(c) Increase funds dedicated to low-income ratepayer assistance and weatherization in Washington.

(3) To support the objectives in subsection (2) of this section, it is the legislature's intent to make permanent the exemption from business and occupation tax amounts received by utilities in the form of credits against power contracts or received from the Bonneville power administration for energy conservation purposes, if the tax savings are used by utilities for low-income ratepayer assistance or weatherization programs. This exemption will induce utilities to invest funds in energy conservation and efficiency programs, thereby reducing the amount of electric energy that such utilities must either generate or purchase, thereby reducing energy costs to utilities and customers. Further, state laws mandating utilities to acquire energy through both energy conservation and noncarbon-emitting resources can increase the cost of energy to ratepayers. Therefore, it is the legislature's intent that this exemption from the business and occupation tax apply only to the extent the tax amounts that would otherwise be owed on credits or refunds from the Bonneville power administration are used by a utility for low-income ratepayer assistance or weatherization, and that the funds generated for low-income ratepayer assistance or weatherization be additive to any existing funds used by the utility for those purposes.

(4) To measure the effectiveness of the exemption provided in this act in achieving the specific public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must, at a minimum:

(a) Evaluate the average annual investment in energy conservation projects by Washington state utilities that have power contracts with the Bonneville power administration; and

(b) Evaluate the average additional funds from the tax savings resulting from this act that are dedicated to low-income ratepayer assistance and weatherization by Washington state utilities that have power contracts with the Bonneville power administration." [2021 c 226 s 1.]

**Effective date—2021 c 226:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021." [2021 c 226 s 3.]

**Automatic expiration date and tax preference performance statement exemption—2019 c 202:** See note following RCW 82.16.310.

**Effective date—Findings—Tax preference performance statement—2014 c 216:** See notes following RCW 82.38.030.

**Expiration date—2010 c 295:** "This act expires June 30, 2015." [2010 c 295 s 2.]

**Finding, purpose—1989 c 302:** See note following RCW 82.04.120.

**RCW 82.04.311 Exemptions—Tobacco settlement authority.** This chapter does not apply to income received by the tobacco settlement authority under chapter 43.340 RCW. [2002 c 365 s 14.]

**Effective date—2002 c 365:** See RCW 43.340.902.

**RCW 82.04.315 Exemptions—International banking facilities.** This chapter shall not apply to the gross receipts of an international banking facility.

As used in this section, an "international banking facility" means a facility represented by a set of asset and liability accounts segregated on the books and records of a commercial bank, the principal office of which is located in this state, and which is incorporated and doing business under the laws of the United States or of this state, a United States branch or agency of a foreign bank, an Edge corporation organized under Section 25(a) of the Federal Reserve Act, 12 United States Code 611-631, or an Agreement corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code 601-604(a), that includes only international banking facility time deposits (as defined in subsection (a)(2) of Section 204.8 of Regulation D (12 C.F.R. Part 204), as promulgated by the Board of Governors of the Federal Reserve System), and international banking facility extensions of credit (as defined in subsection (a)(3) of Section 204.8 of Regulation D). [1982 c 95 s 7.]

**Effective date—1982 c 95:** See note following RCW 30A.42.070.

**RCW 82.04.317 Exemptions—Motor vehicle sales by manufacturers at wholesale auctions to dealers.** This chapter does not apply to amounts received by a motor vehicle manufacturer, as defined in RCW 19.118.021, or by a financing subsidiary of such motor vehicle manufacturer which subsidiary is at least fifty percent owned by the manufacturer, from the sale of motor vehicles at wholesale auctions to dealers licensed under chapter 46.70 RCW or dealers licensed by any other state. [1997 c 4 s 1.]

**Effective date—1997 c 4:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 18, 1997]." [1997 c 4 s 2.]

**RCW 82.04.320 Exemptions—Insurance business.** (1) Except as otherwise provided in this section, this chapter does not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state.

(2) The provisions of this section do not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies.

(3) The provisions of this section do not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

(4) For purposes of this section, for periods preceding May 12, 2021, eligible captive insurers as defined in RCW 48.201.020 are deemed, in respect to their insurance business, to have paid a tax on gross premiums to the state.

(5) Eligible captive insurers affiliated with a public institution of higher education that are exempt from paying a premium tax under RCW 48.201.040 are exempt from the tax imposed by this chapter in respect to their insurance business. For purposes of this subsection (5), the definitions in RCW 48.201.020 apply. [2021 c 281 s 10; 1961 c 15 s 82.04.320. Prior: 1959 c 197 s 16; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**Reviser's note:** The tax preference enacted in section 10(5), chapter 281, Laws of 2021 expires January 1, 2032, pursuant to the automatic expiration date established in RCW 82.32.805(1)(a).

**Application—2021 c 281 ss 8-11:** See note following RCW 48.14.095.

**Effective date—2021 c 281:** See note following RCW 48.201.010.

**RCW 82.04.321 Exemptions—Qualified health plan patients.** This chapter does not apply to amounts received by a health care provider for services performed on patients covered by a qualified health plan offered under RCW 41.05.410, including reimbursement from the qualified health plan and any amounts collected from the patient as part of his or her cost-sharing obligation. [2019 c 364 s 9.]

**Reviser's note:** The tax preference enacted in section 9, chapter 364, Laws of 2019 expires January 1, 2032, pursuant to the automatic expiration date established in RCW 82.32.805(1)(a).

**RCW 82.04.322 Exemptions—Health maintenance organization, health care service contractor, certified health plan.** This chapter does not apply to any health maintenance organization, health care service contractor, or certified health plan in respect to premiums or prepayments that are taxable under RCW 48.14.0201. [1993 c 492 s 303.]

**Findings—Intent—1993 c 492:** See notes following RCW 43.20.050.

**Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**RCW 82.04.323 Exemption—Washington health benefit exchange.** The taxes imposed by this chapter do not apply to amounts received by the Washington health benefit exchange established under chapter 43.71 RCW. [2022 c 73 s 1; 2013 2nd sp.s. c 6 s 8.]

**Retroactive application—2013 2nd sp.s. c 6 s 8:** "Section 8 of this act applies both prospectively and retroactively." [2013 2nd sp.s. c 6 s 10.]

**RCW 82.04.324 Exemptions—Qualifying blood, tissue, or blood and tissue banks.** (1) This chapter does not apply to amounts received by a qualifying blood bank, a qualifying tissue bank, or a qualifying blood and tissue bank to the extent the amounts are exempt from federal income tax.

(2) For the purposes of this section:

(a) "Qualifying blood bank" means a blood bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered pursuant to 21 C.F.R., part 607 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood. "Qualifying blood bank" does not include a comprehensive cancer center that is recognized as such by the national cancer institute.

(b) "Qualifying tissue bank" means a tissue bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered pursuant to 21 C.F.R., part 1271 as existing on June 10, 2004, and whose primary business purpose is the recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, heart valve tissue, or human eye tissue. "Qualifying tissue bank" does not include a comprehensive cancer center that is recognized as such by the national cancer institute.

(c) "Qualifying blood and tissue bank" is a bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered pursuant to 21 C.F.R., part 607 and part 1271 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood, and the

recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, and heart valve tissue. "Qualifying blood and tissue bank" does not include a comprehensive cancer center that is recognized as such by the national cancer institute. [2004 c 82 s 1; (2013 2nd sp.s. c 13 s 1202 repealed by 2013 2nd sp.s. c 13 s 1907); 1995 2nd sp.s. c 9 s 3.]

**Intent—2013 2nd sp.s. c 13:** "Part XII of this act is intended to allow flexibility for nonprofit organizations where qualifying activities will be provided by more than one organization. It is not the legislature's intent to expand the lines of nontaxable activity. Therefore, the legislature further intends to reassess the changes made in part XII of this act to ensure the actual fiscal impact reasonably conforms with the fiscal estimate provided in the fiscal note for the legislation." [2013 2nd sp.s. c 13 s 1201.]

**Effective date—2013 2nd sp.s. c 13:** See note following RCW 82.04.43393.

**Effective date—1995 2nd sp.s. c 9:** See note following RCW 84.36.035.

**RCW 82.04.326 Exemptions—Qualified organ procurement organizations.** This chapter does not apply to amounts received by a qualified organ procurement organization under 42 U.S.C. Sec. 273(b) in effect as of January 1, 2001, to the extent that the amounts are exempt from federal income tax. [2002 c 113 s 1.]

**Effective date—2002 c 113:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2002]." [2002 c 113 s 4.]

**RCW 82.04.327 Exemptions—Adult family homes.** This chapter does not apply to adult family homes which are licensed as such, or which are specifically exempt from licensing, under rules of the department of social and health services. [1987 1st ex.s. c 4 s 1.]

**RCW 82.04.330 Exemptions—Sales of agricultural products.** (1) This chapter does not apply to any farmer in respect to the sale of any agricultural product at wholesale or to any farmer who grows, raises, or produces agricultural products owned by others, such as custom feed operations. This exemption does not apply to any person selling such products at retail or to any person selling manufactured substances or articles. This chapter does not apply to bee pollination services provided to a farmer by an eligible apiarist.

(2) This chapter also does not apply to any persons who participate in the federal conservation reserve program or its successor administered by the United States department of agriculture with respect to land enrolled in that program. [2015 3rd sp.s. c 6 s 1103; 2014 c 140 s 7; 2001 c 118 s 3; 1993 sp.s. c 25 s 305; 1988 c 253 s 2; 1987 c 23 s 4. Prior: 1985 c 414 s 10; 1985 c 148 s 1; 1965

ex.s. c 173 s 7; 1961 c 15 s 82.04.330; prior: 1959 c 197 s 17; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**Tax preference performance statement—2015 3rd sp.s. c 6 ss**

**1102-1106:** "This section is the tax preference performance statement for the tax preference contained in this Part XI. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

It is the legislature's specific public policy objective to support the honey bee industry and provide tax relief to eligible apiarists. Honey bees pollinate eighty percent of the nation's flowering crops, which include agricultural crops. They are vitally important to agriculture and an integral part of food production. Therefore, the legislature intends to permanently include eligible apiarists within the definition of farmer and define honey bee products as agricultural products so that they may receive the same tax relief as that provided to other sectors of agriculture. Because the legislature intends for the changes in this Part XI to be permanent, they are exempt from the ten-year expiration provision in RCW 82.32.805." [2015 3rd sp.s. c 6 s 1101.]

**Tax preference intended to be permanent—2015 3rd sp.s. c 6 ss**

**1102-1106:** "The legislature intends for the amendments in this act to be permanent. Therefore, the amendments in Part XI of this act are exempt from the provision in RCW 82.32.805 and 82.32.808." [2015 3rd sp.s. c 6 s 1108.]

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Effective date—1965 ex.s. c 173:** See note following RCW 82.04.050.

*Deductions—Compensation for receiving, washing, etc., horticultural products for person exempt under RCW 82.04.330—Materials and supplies used: RCW 82.04.4287.*

**RCW 82.04.331 Exemptions—Wholesale sales to farmers of seed for planting, conditioning seed for planting owned by others.** (1) This chapter does not apply to amounts received by a person engaging within this state in the business of: (a) Making wholesale sales to farmers of seed conditioned for use in planting and not packaged for retail sale; or (b) conditioning seed for planting owned by others.

(2) For the purposes of this section, "seed" means seed potatoes and all other "agricultural seed" as defined in RCW 15.49.011. "Seed" does not include "flower seeds" or "vegetable seeds" as defined in RCW 15.49.011, or any other seeds or propagative portions of plants used

to grow cannabis, ornamental flowers, or any type of bush, moss, fern, shrub, or tree. [2022 c 16 s 141; 2014 c 140 s 8; 1998 c 170 s 2.]

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Contingent effective dates—1998 c 170:** "(1) Sections 1 and 3 of this act take effect only if House Bill No. 2335 fails to become law. (2) Section 2 of this act takes effect only if House Bill No. 2335 becomes law." [1998 c 170 s 5.] House Bill No. 2335 became 1998 c 312.

**Effective date—1998 c 170:** "This act takes effect July 1, 1998." [1998 c 170 s 6.]

**RCW 82.04.332 Exemptions—Buying and selling at wholesale unprocessed milk, wheat, oats, dry peas, dry beans, lentils, triticale, canola, corn, rye, and barley.** This chapter does not apply to amounts received from buying unprocessed milk, wheat, oats, dry peas, dry beans, lentils, triticale, canola, corn, rye, and barley, but not including any manufactured products thereof, and selling the same at wholesale. [2007 c 131 s 1; 1998 c 312 s 2.]

**Effective date—1998 c 312:** "This act takes effect July 1, 1998." [1998 c 312 s 11.]

**Savings—1998 c 312:** "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [1998 c 312 s 10.]

**RCW 82.04.333 Exemptions—Small harvesters.** In computing tax under this chapter, a person who is a small harvester as defined in RCW 84.33.035 may deduct an amount not to exceed one hundred thousand dollars per tax year from the gross receipts or value of products proceeding or accruing from timber harvested by that person. A deduction under this section may not reduce the amount of tax due to less than zero. [2011 c 101 s 4; 2007 c 48 s 5; 1990 c 141 s 1.]

**Effective date—2007 c 48:** See note following RCW 82.04.260.

**RCW 82.04.334 Exemptions—Standing timber.** This chapter does not apply to any sale of standing timber excluded from the definition of "sale" in RCW 82.45.010(3). The definitions in RCW 82.04.260(12) apply to this section. [2017 c 323 s 502; 2010 1st sp.s. c 23 s 512; 2007 c 48 s 3.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2007 c 48:** See note following RCW 82.04.260.

**RCW 82.04.335 Exemptions—Agricultural fairs.** This chapter shall not apply to any business of any bona fide agricultural fair, if no part of the net earnings therefrom inures to the benefit of any stockholder or member of the association conducting the same: PROVIDED, That any amount paid for admission to any exhibit, grandstand, entertainment, or other feature conducted within the fairgrounds by others shall be taxable under the provisions of this chapter, except as otherwise provided by law. [1965 ex.s. c 145 s 1.]

**RCW 82.04.337 Exemptions—Amounts received by hop growers or dealers for processed hops shipped outside the state.** This chapter shall not apply to amounts received by hop growers or dealers for hops which are shipped outside the state of Washington for first use, if those hops have been processed into extract, pellets, or powder in this state. This section does not exempt a processor or warehouse from taxation under this chapter on amounts charged for processing or warehousing. [1987 c 495 s 1.]

**RCW 82.04.338 Exemptions—Hop commodity commission or hop commodity board business.** This chapter does not apply to any nonprofit organization in respect to gross income derived from business activities for a hop commodity commission or hop commodity board created by state statute or created under chapter 15.65 or 15.66 RCW if: (1) The activity is approved by a referendum conducted by the commission or board; (2) the person is specified in information distributed by the commission or board for the referendum as a person who is to conduct the activity; and (3) the referendum is conducted in the manner prescribed by the statutes governing the commission or board for approving assessments or expenditures, or otherwise authorizing or approving activities of the commission or board. As used in this section, "nonprofit organization" means an organization that is exempt from federal income tax under 26 U.S.C. [Sec.] 501(c)(5). [1998 c 200 s 1.]

**RCW 82.04.339 Exemptions—Day care provided by churches.** This chapter shall not apply to amounts derived by a church that is exempt from property tax under RCW 84.36.020 from the provision of care for children for periods of less than twenty-four hours. [1992 c 81 s 1.]

**RCW 82.04.3395 Exemptions—Child care resource and referral services by nonprofit organizations.** This chapter does not apply to nonprofit organizations in respect to amounts derived from the provision of child care resource and referral services. [1995 2nd sp.s. c 11 s 3.]

**Effective date—1995 2nd sp.s. c 11:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 2nd sp.s. c 11 s 4.]

**RCW 82.04.340 Exemptions—Boxing, sparring, or wrestling matches.** This chapter shall not apply to any person in respect to the business of conducting boxing contests and sparring or wrestling matches and exhibitions for the conduct of which a license must be secured from the department of licensing. [2000 c 103 s 6; 1988 c 19 s 4; 1961 c 15 s 82.04.340. Prior: 1959 c 197 s 18; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**RCW 82.04.350 Exemptions—Racing.** Except as provided in RCW 82.04.286(1), this chapter shall not apply to any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the horse racing commission. [2005 c 369 s 7; 1961 c 15 s 82.04.350. Prior: 1959 c 197 s 19; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**Findings—Intent—Severability—Effective date—2005 c 369:** See notes following RCW 41.05.750.

**RCW 82.04.355 Exemptions—Ride sharing.** This chapter does not apply to any funds received in the course of ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010. [2021 c 135 s 5; 1999 c 358 s 8; 1979 c 111 s 17.]

**Reviser's note:** The tax preference enacted in section 5, chapter 135, Laws of 2021 expires January 1, 2032, pursuant to the automatic expiration date established in RCW 82.32.805(1)(a).

**Effective date—2021 c 135:** See note following RCW 46.18.285.

**Effective date—1999 c 358 ss 1 and 3-21:** See note following RCW 82.04.3651.

**Severability—1979 c 111:** See note following RCW 46.74.010.

**RCW 82.04.360 Exemptions—Employees—Independent contractors—Booth renters.** (1) This chapter does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

(2) Until July 1, 2010, this chapter does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. Beginning on July 1, 2010, such amounts are taxable under RCW 82.04.290(2).

(3) A booth renter is an independent contractor for purposes of this chapter. For purposes of this section, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and

(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed. [2010 1st sp.s. c 23 s 702; 2010 c 106 s 207. Prior: 1991 c 324 s 19; 1991 c 275 s 2; 1961 c 15 s 82.04.360; prior: 1959 c 197 s 20; prior: 1945 c 249, s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**Application—Refunds—2010 1st sp.s. c 23 ss 702 and 1704:** "In accordance with Article VIII, section 5 of the state Constitution, sections 702 and 1704 of this act do not authorize refunds of business and occupation tax validly collected before July 1, 2010, on amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors." [2010 1st sp.s. c 23 s 1705.]

**Intent—Findings—2010 1st sp.s. c 23:** "(1) In adopting the state's business and occupation tax, the legislature intended to tax virtually all business activities carried on within the state. See *Simpson Inv. Co. v. Dep't of Revenue*, 141 Wn.2d 139, 149 (2000). The legislature recognizes that the business and occupation tax applies to all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly, unless a specific exemption applies.

(2) One of the major business and occupation tax exemptions is provided in RCW 82.04.360 for income earned as an employee or servant as distinguished from income earned as an independent contractor. The legislature's intent in providing this exemption was to exempt employee wages from the business and occupation tax but not to exempt income earned as an independent contractor.

(3) The legislature finds that corporate directors are not employees or servants of the corporation whose board they serve on and therefore are not entitled to a business and occupation tax exemption under RCW 82.04.360. The legislature further finds that there are no business and occupation tax exemptions for compensation received for serving as a member of a corporation's board of directors.

(4) The legislature also finds that there is a widespread misunderstanding among corporate directors that the business and occupation tax does not apply to the compensation they receive for serving as a director of a corporation. It is the legislature's expectation that the department of revenue will take appropriate measures to ensure that corporate directors understand and comply with their business and occupation tax obligations with respect to their director compensation. However, because of the widespread misunderstanding by corporate directors of their liability for

business and occupation tax on director compensation, the legislature finds that it is appropriate in this unique situation to provide limited relief against the retroactive assessment of business and occupation taxes on corporate director compensation.

(5) The legislature also reaffirms its intent that all income of all independent contractors is subject to business and occupation tax unless specifically exempt under the Constitution or laws of this state or the United States." [2010 1st sp.s. c 23 s 701.]

**Effective date—2010 1st sp.s. c 23 ss 107, 601, 602, 702, 902, 1202, and 1401-1405:** See note following RCW 82.04.2907.

**Retroactive application—2010 1st sp.s. c 23 ss 402 and 702:** See note following RCW 82.04.423.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Finding—Intent—1991 c 275:** "(1) The legislature finds:

(a) The existing state policy is to exempt employees from the business and occupation tax.

(b) It has been difficult to distinguish, for business and occupation tax purposes, between independent contractors and employees who are in the business of selling life insurance. The tests commonly used by the department of revenue to determine tax status have not successfully differentiated employees from independent contractors when applied to the life insurance industry.

(2) The intent of this act is to apply federal tax law and rules to distinguish between employees and independent contractors for business and occupation tax purposes, solely for the unique business of selling life insurance." [1991 c 275 s 1.]

**Effective date—1991 c 275:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 275 s 3.]

**RCW 82.04.363 Exemptions—Camp or conference center—Items sold or furnished by nonprofit organization.** This chapter does not apply to amounts received by a nonprofit organization from the sale or furnishing of the following items at a camp or conference center conducted on property exempt from property tax under RCW 84.36.030 (1), (2), or (3):

(1) Lodging, conference and meeting rooms, camping facilities, parking, and similar licenses to use real property;

(2) Food and meals;

(3) Books, tapes, and other products, including books and other products that are transferred electronically, that are available exclusively to the participants at the camp, conference, or meeting and are not available to the public at large. [2009 c 535 s 409; 1997 c 388 s 1.]

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Effective date—1997 c 388:** "This act takes effect October 1, 1997." [1997 c 388 s 3.]

**RCW 82.04.3651 Exemptions—Amounts received by nonprofit organizations for fund-raising activities.** (1) This chapter does not apply to amounts received from fund-raising activities by nonprofit organizations, as defined in subsection (2) of this section, and libraries as defined in RCW 27.12.010.

(2) As used in this section, a "nonprofit organization" means:

(a) An organization exempt from tax under section 501(c) (3), (4), or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c) (3), (4), or (10));

(b) A nonprofit organization that would qualify under (a) of this subsection except that it is not organized as a nonprofit corporation; or

(c) A nonprofit organization that meets all of the following criteria:

(i) The members, stockholders, officers, directors, or trustees of the organization do not receive any part of the organization's gross income, except as payment for services rendered;

(ii) The compensation received by any person for services rendered to the organization does not exceed an amount reasonable under the circumstances; and

(iii) The activities of the organization do not include a substantial amount of political activity, including but not limited to influencing legislation and participation in any campaign on behalf of any candidate for political office.

(3) As used in this section, the term "fund-raising activity" means soliciting or accepting contributions of money or other property or activities involving the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited, for the purpose of furthering the goals of the nonprofit organization. "Fund-raising activity" does not include the operation of a regular place of business in which sales are made during regular hours such as a bookstore, thrift shop, restaurant, or similar business or the operation of a regular place of business from which services are provided or performed during regular hours such as the provision of retail, personal, or professional services. The sale of used books, used videos, used sound recordings, or similar used information products in a library, as defined in RCW 27.12.010, is not the operation of a regular place of business for the purposes of this section, if the proceeds of the sales are used to support the library. [2010 c 106 s 208; 1999 c 358 s 3; 1998 c 336 s 2.]

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Effective date—1999 c 358 ss 1 and 3-21:** "Sections 1 and 3 through 21 of this act take effect August 1, 1999." [1999 c 358 s 22.]

**Findings—1998 c 336:** "The legislature finds that nonprofit educational, charitable, religious, scientific, and social welfare organizations provide many public benefits to the people of the state

of Washington. Therefore, the legislature finds that it is in the best interests of the state of Washington to provide a limited excise tax exemption for fund-raising activities for certain nonprofit organizations." [1998 c 336 s 1.]

*Sales tax exemptions: RCW 82.08.02573.*

**RCW 82.04.367 Exemptions—Nonprofit organizations that are guarantee agencies, issue debt, or provide guarantees for student loans.** This chapter does not apply to gross income received by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code of 1954, as amended, that:

(1) Are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans; or

(2) Provide guarantees for student loans made through programs other than the federal guaranteed student loan program. [1998 c 324 s 1; 1987 c 433 s 1.]

**RCW 82.04.368 Exemptions—Nonprofit organizations—Credit and debt services.** This chapter does not apply to nonprofit organizations in respect to amounts derived from provision of the following services:

(1) Presenting individual and community credit education programs including credit and debt counseling;

(2) Obtaining creditor cooperation allowing a debtor to repay debt in an orderly manner;

(3) Establishing and administering negotiated repayment programs for debtors; or

(4) Providing advice or assistance to a debtor with regard to subsection (1), (2), or (3) of this section. [1993 c 390 s 1.]

**RCW 82.04.370 Exemptions—Certain fraternal and beneficiary organizations.** This chapter shall not apply to fraternal benefit societies or fraternal fire insurance associations, as described in Title 48 RCW; nor to beneficiary corporations or societies organized under and existing by virtue of Title 24 RCW, if such beneficiary corporations or societies provide in their bylaws for the payment of death benefits. Exemption is limited, however, to gross income from premiums, fees, assessments, dues or other charges directly attributable to the insurance or death benefits provided by such societies, associations, or corporations. [1961 c 293 s 4; 1961 c 15 s 82.04.370. Prior: 1959 c 197 s 21; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**RCW 82.04.380 Exemptions—Certain corporations furnishing aid and relief.** This chapter shall not apply to the gross sales or the gross income received by corporations which have been incorporated under any act of the congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of

the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. [1961 c 15 s 82.04.380. Prior: 1959 c 197 s 22; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**RCW 82.04.385 Exemptions—Operation of sheltered workshops.**

This chapter shall not apply to income received from the department of social and health services for the cost of care, maintenance, support, and training of persons with developmental disabilities at nonprofit group training homes as defined by chapter 71A.22 RCW or to the business activities of nonprofit organizations from the operation of sheltered workshops. For the purposes of this section, "the operation of sheltered workshops" means performance of business activities of any kind on or off the premises of such nonprofit organizations which are performed for the primary purpose of (1) providing gainful employment or rehabilitation services to persons with disabilities as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for persons with disabilities. [2020 c 274 s 68. Prior: 1988 c 176 s 915; 1988 c 13 s 1; 1972 ex.s. c 134 s 1; 1970 ex.s. c 81 s 3.]

**RCW 82.04.390 Exemptions—Amounts derived from sale of real estate.** This chapter shall not apply to gross proceeds derived from the sale of real estate. This however, shall not be construed to allow a deduction of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. [1961 c 15 s 82.04.390. Prior: 1959 ex.s. c 5 s 8; 1959 c 197 s 23; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**RCW 82.04.392 Exemptions—Mortgage brokers' third-party provider services trust accounts.** This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions. [1998 c 311 s 3; 1997 c 106 s 21.]

**Intent—Retroactive application—1998 c 311 ss 1 and 3:** See note following RCW 19.146.050.

**Severability—1997 c 106:** See note following RCW 19.146.010.

**RCW 82.04.399 Exemptions—Sales of academic transcripts.** This chapter does not apply to amounts received from sales of academic transcripts by educational institutions. [1996 c 272 s 1.]

**Effective date—1996 c 272:** "This act shall take effect July 1, 1996." [1996 c 272 s 4.]

**RCW 82.04.405 Exemptions—Credit unions.** This chapter shall not apply to the gross income of credit unions organized under the laws of this state, any other state, or the United States. [1998 c 311 s 4; 1970 ex.s. c 101 s 3.]

**Severability—Effective date—1970 ex.s. c 101:** See notes following RCW 33.28.040.

**RCW 82.04.408 Exemptions—Housing finance commission.** This chapter does not apply to income received by the state housing finance commission under chapter 43.180 RCW. [1983 c 161 s 25.]

**Effective dates—1983 c 161:** See RCW 43.180.904.

**RCW 82.04.410 Exemptions—Hatching eggs and poultry.** This chapter shall not apply to amounts derived by persons engaged in the production and sale of hatching eggs or poultry for use in the production for sale of poultry or poultry products. [1967 ex.s. c 149 s 15; 1961 c 15 s 82.04.410. Prior: 1959 c 197 s 25; prior: 1945 c 249 s 2, part; 1943 c 156 s 4, part; 1941 c 178 s 6, part; 1939 c 225 s 5, part; 1937 c 227 s 4, part; 1935 c 180 s 11, part; Rem. Supp. 1945 s 8370-11, part.]

**RCW 82.04.415 Exemptions—Sand, gravel and rock taken from county or city pits or quarries, processing and handling costs.** This chapter shall not apply to:

(1) The cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or city and such sand, gravel, or rock is either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself; or

(2) The cost of or charges for such labor and services if any such sand, gravel, or rock is sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway.

The exemption provided for in this section shall not apply to the cost of or charges for such labor and services if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this section. [1965 ex.s. c 173 s 10.]

**Effective date—1965 ex.s. c 173:** See note following RCW 82.04.050.

**RCW 82.04.416 Exemptions—Operation of state route No. 16.** This chapter does not apply to amounts received from operating state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW. [1998 c 179 s 3.]

**Finding—1998 c 179:** See note following RCW 35.21.718.

**RCW 82.04.418 Exemptions—Grants by United States government to municipal corporations or political subdivisions.** The provisions of this chapter shall not apply to grants received from the state or the United States government by municipal corporations or political subdivisions of the state of Washington. [1983 1st ex.s. c 66 s 2.]

**RCW 82.04.419 Exemptions—County, city, town, school district, or fire district activity.** This chapter shall not apply to any county, city, town, school district, or fire district activity, regardless of how financed, other than a utility or enterprise activity as defined by the state auditor pursuant to RCW 35.33.111 and 36.40.220 and upon which the tax imposed pursuant to this chapter had previously applied. Nothing contained in this section shall limit the authority of the legislature to authorize the imposition of such tax prospectively upon such activities as the legislature shall specifically designate. [1983 1st ex.s. c 66 s 3.]

**RCW 82.04.4201 Exemptions—Sales/leasebacks by regional transit authorities.** This chapter does not apply to amounts received as lease payments paid by a seller/lessee to a lessor under a sale/leaseback agreement under RCW 81.112.300 in respect to tangible personal property used by the seller/lessee, or to the purchase amount paid by the lessee under an option to purchase at the end of the lease term. [2000 2nd sp.s. c 4 s 24.]

**Findings—Construction—2000 2nd sp.s. c 4 ss 18-30:** See notes following RCW 81.112.300.

**RCW 82.04.421 Exemptions—Out-of-state membership sales in discount programs.** (1) For the purposes of this section, "qualifying discount program" means a membership program, club, or plan that entitles the member to discounts on services or products sold by others. The term does not include any discount program which in part or in total entitles the member to discounts on services or products sold by the seller of the membership or an affiliate of the seller of the membership. "Affiliate," for the purposes of this section, means any person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the seller.

(2) Persons selling memberships in a qualifying discount program are not subject to tax under this chapter on that portion of the membership sales where the seller delivers the membership materials to the purchaser who receives them at a point outside this state. [1997 c 408 s 1.]

**Effective date—1997 c 408:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 408 s 2.]

**RCW 82.04.422 Exemptions—Wholesale sales of motor vehicles.**

(1) This chapter does not apply to amounts received by a motor vehicle dealer licensed under chapter 46.70 RCW, or a dealer licensed by any other state, for the wholesale sale of used motor vehicles at auctions to licensed dealers.

(2) This chapter does not apply to amounts derived by a new car dealer from wholesale sales of new motor vehicles to other new car dealers making sales of new motor vehicles of the same make. This exemption does not apply to amounts derived by a manufacturer, distributor, or factory branch as defined in chapter 46.70 RCW. [2004 c 81 s 1; 2001 c 258 s 1.]

**Effective date—2004 c 81:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2004]." [2004 c 81 s 2.]

**Effective date—2001 c 258:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 258 s 3.]

**RCW 82.04.423 Exemptions—Sales by certain out-of-state persons to or through direct seller's representatives.** (1) Prior to May 1, 2010, this chapter does not apply to any person in respect to gross income derived from the business of making sales at wholesale or retail if such person:

(a) Does not own or lease real property within this state; and  
(b) Does not regularly maintain a stock of tangible personal property in this state for sale in the ordinary course of business; and

(c) Is not a corporation incorporated under the laws of this state; and

(d) Makes sales in this state exclusively to or through a direct seller's representative.

(2) For purposes of this section, the term "direct seller's representative" means a person who buys only consumer products on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment, or who sells at retail, or solicits the sale at retail of, only consumer products in the home or otherwise than in a permanent retail establishment; and

(a) Substantially all of the remuneration paid to such person, whether or not paid in cash, for the performance of services described in this subsection is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and

(b) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the

services are performed and such contract provides that the person will not be treated as an employee with respect to such purposes for federal tax purposes.

(3) Nothing in this section may be construed to imply that a person exempt from tax under this section was engaged in a business activity taxable under this chapter prior to August 23, 1983. [2010 1st sp.s. c 23 s 402; 1983 1st ex.s. c 66 s 5.]

**Retroactive application—2010 1st sp.s. c 23 ss 402 and 702:**

"Sections 402 and 702 of this act apply both retroactively and prospectively." [2010 1st sp.s. c 23 s 1704.]

**Application—Refunds—2010 1st sp.s. c 23 ss 702 and 1704:** See note following RCW 82.04.360.

**Application—Final judgments—2010 1st sp.s. c 23 s 402:** "Section 402 of this act does not affect any final judgments, not subject to appeal, entered by a court of competent jurisdiction before May 1, 2010." [2010 1st sp.s. c 23 s 1706.]

**Intent—Findings—2010 1st sp.s. c 23:** "(1) A business and occupation tax exemption is provided in RCW 82.04.423 for certain out-of-state sellers that sell consumer products exclusively to or through a direct seller's representative. The intent of the legislature in enacting this exemption was to provide a narrow exemption for out-of-state businesses engaged in direct sales of consumer products, typically accomplished through in-home parties or door-to-door selling.

(2) In *Dot Foods, Inc. v. Dep't of Revenue*, Docket No. 81022-2 (September 10, 2009), the Washington supreme court held that the exemption in RCW 82.04.423 applied to a taxpayer: (a) That sold nonconsumer products through its representative in addition to consumer products; and (b) whose consumer products were ultimately sold at retail in permanent retail establishments.

(3) The legislature finds that most out-of-state businesses selling consumer products in this state will either be eligible for the exemption under RCW 82.04.423 or could easily restructure their business operations to qualify for the exemption. As a result, the legislature expects that the broadened interpretation of the direct sellers' exemption will lead to large and devastating revenue losses. This comes at a time when the state's existing budget is facing a two billion six hundred million dollar shortfall, which could grow, while at the same time the demand for state and state-funded services is also growing. Moreover, the legislature further finds that RCW 82.04.423 provides preferential tax treatment for out-of-state businesses over their in-state competitors and now creates a strong incentive for in-state businesses to move their operations outside Washington.

(4) Therefore, the legislature finds that it is necessary to reaffirm the legislature's intent in establishing the direct sellers' exemption and prevent the loss of revenues resulting from the expanded interpretation of the exemption by amending RCW 82.04.423 retroactively to conform the exemption to the original intent of the legislature and by prospectively ending the direct sellers' exemption as of May 1, 2010." [2010 1st sp.s. c 23 s 401.]

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.32.655.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.425 Exemptions—Accommodation sales.** This chapter shall not apply to sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to his or her vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable him or her to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller; nor to sales by a wholly owned subsidiary of a person making sales at retail which are exempt under RCW 82.08.0262 when the parent corporation shall have paid the tax imposed under this chapter. [2013 c 23 s 315; 1980 c 37 s 78; 1965 ex.s. c 173 s 9; 1961 c 15 s 82.04.425. Prior: 1955 c 95 s 1.]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**Effective date—1965 ex.s. c 173:** See note following RCW 82.04.050.

**RCW 82.04.4251 Exemptions—Convention and tourism promotion.** This chapter does not apply to amounts received by a nonprofit corporation organized under chapter 24.03A RCW as payments or contributions from the state or any county, city, town, municipal corporation, quasi-municipal corporation, federally recognized Indian tribe, port district, or public corporation for the promotion of conventions and tourism. [2021 c 176 s 5244; 2006 c 310 s 1.]

**Effective date—2021 c 176:** See note following RCW 24.03A.005.

**RCW 82.04.426 Exemptions—Semiconductor microchips. (Contingent effective date; contingent expiration date.)** (1) The tax imposed by RCW 82.04.241 does not apply to any person in respect to the manufacturing of semiconductor microchips.

(2) For the purposes of this section:

(a) "Manufacturing semiconductor microchips" means taking raw polished semiconductor wafers and embedding integrated circuits on the wafers using processes such as masking, etching, and diffusion; and

(b) "Integrated circuit" means a set of microminiaturized, electronic circuits.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(5) Any person who has claimed the exemption under this section must reimburse the department for 50 percent of the amount of the tax preference under this section if the number of persons employed by the person claiming the tax preference is less than 90 percent of the person's three-year employment average for the three years immediately preceding the year in which the exemption is claimed.

(6) This section expires January 1, 2034, unless the contingency in RCW 82.32.790(2) occurs. [2024 c 261 s 3. Prior: 2017 3rd sp.s. c 37 s 524; (2017 3rd sp.s. c 37 s 523 expired January 1, 2018); 2017 c 135 s 13; 2010 c 114 s 110; 2003 c 149 s 2.]

**Tax preference performance statement exemption—Effective date—2024 c 261 ss 2-9:** See notes following RCW 82.04.241.

**Effective date—2017 3rd sp.s. c 37 ss 101-104, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, 707, and 801-803:** See note following RCW 82.04.2404.

**Expiration date—2017 3rd sp.s. c 37 ss 502, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, and 525:** See note following RCW 82.04.2404.

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Finding—Intent—2010 c 114:** See note following RCW 82.32.534.

**Findings—Intent—2003 c 149:** "The legislature finds that the welfare of the people of the state of Washington is positively impacted through the encouragement and expansion of family wage employment in the state's manufacturing industries. The legislature further finds that targeting tax incentives to focus on key industry clusters is an important business climate strategy. The Washington competitiveness council has recognized the semiconductor industry, which includes the design and manufacture of semiconductor materials, as one of the state's existing key industry clusters. Businesses in this cluster in the state of Washington are facing increasing pressure to expand elsewhere. The sales and use tax exemptions for manufacturing machinery and equipment enacted by the 1995 legislature improved Washington's ability to compete with other states for manufacturing investment. However, additional incentives for the semiconductor cluster need to be put in place in recognition of the unique forces and global issues involved in business decisions that key businesses in this cluster face.

Therefore, the legislature intends to enact comprehensive tax incentives for the semiconductor cluster that address activities of the lead product industry and its suppliers and customers. Tax incentives for the semiconductor cluster are important in both retention and expansion of existing business and attraction of new businesses, all of which will strengthen this cluster. The legislature also recognizes that the semiconductor industry involves major investment that results in significant construction projects, which will create jobs and bring many indirect benefits to the state during the construction phase." [2003 c 149 s 1.]

**RCW 82.04.4261 Exemptions—Federal small business innovation research program.** This chapter does not apply to amounts received by any person for research and development under the federal small business innovation research program (114 Stat. 2763A; 15 U.S.C. Sec. 638 et seq.). [2004 c 2 s 9.]

**Effective date—2004 c 2 ss 9 and 10:** "Sections 9 and 10 of this act take effect July 1, 2004." [2004 c 2 s 11.]

**RCW 82.04.4262 Exemptions—Federal small business technology transfer program.** This chapter does not apply to amounts received by any person for research and development under the federal small business technology transfer program (115 Stat. 263; 15 U.S.C. Sec. 638 et seq.). [2004 c 2 s 10.]

**Effective date—2004 c 2 ss 9 and 10:** See note following RCW 82.04.4261.

**RCW 82.04.4263 Exemptions—Income received by the life sciences discovery fund authority.** This chapter does not apply to income received by the life sciences discovery fund authority under \*chapter 43.350 RCW. [2005 c 424 s 11.]

**\*Reviser's note:** Chapter 43.350 RCW was repealed and/or recodified by 2019 c 83 ss 5 and 6.

**RCW 82.04.4264 Exemptions—Nonprofit assisted living facilities—Room and domiciliary care.** (1) This chapter does not apply to amounts received by a nonprofit assisted living facility licensed under chapter 18.20 RCW for providing room and domiciliary care to residents of the assisted living facility.

(2) As used in this section:

(a) "Domiciliary care" has the meaning provided in RCW 18.20.020.

(b) "Nonprofit assisted living facility" means an assisted living facility that is operated as a religious or charitable organization, is exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3), is incorporated under chapter 24.03A RCW, is operated as part of a nonprofit hospital, or is operated as part of a public hospital district. [2021 c 176 s 5245; 2012 c 10 s 71; 2005 c 514 s 301.]

**Effective date—2021 c 176:** See note following RCW 24.03A.005.

**Application—2012 c 10:** See note following RCW 18.20.010.

**Effective date—2005 c 514:** See note following RCW 83.100.230.

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**RCW 82.04.4265 Exemptions—Comprehensive cancer centers.** (1) This chapter does not apply to amounts received by a comprehensive

cancer center to the extent the amounts are exempt from federal income tax.

(2) For the purposes of this section, "comprehensive cancer center" means a cancer center that has written confirmation that it is recognized by the national cancer institute as a comprehensive cancer center and that qualifies as an exempt organization under 26 U.S.C. Sec. 501(c)(3) as existing on July 1, 2006. [2005 c 514 s 401.]

**Effective date—2005 c 514 ss 401-403:** "Sections 401 through 403 of this act take effect July 1, 2006." [2005 c 514 s 1304.]

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**RCW 82.04.4266 Exemptions—Fruit and vegetable businesses. (Expires July 1, 2035.)** (1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

- (a) Manufacturing fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or
- (b) Selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) For purposes of this section, "fruits" and "vegetables" do not include cannabis, useable cannabis, or cannabis-infused products.

(3) A person claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires July 1, 2035. [2023 c 422 s 3; 2022 c 16 s 142; 2020 c 139 s 5; 2015 3rd sp.s. c 6 s 202; 2014 c 140 s 9; 2012 2nd sp.s. c 6 s 201; 2011 c 2 s 202 (Initiative Measure No. 1107, approved November 2, 2010); 2010 1st sp.s. c 23 s 504; (2010 1st sp.s. c 23 s 503 expired June 10, 2010); 2010 c 114 s 111; 2006 c 354 s 3; 2005 c 513 s 1.]

**Tax preference performance statement—2023 c 422 ss 2-5:** See note following RCW 82.04.4268.

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Effective dates—2020 c 272; 2017 c 323; 2015 3rd sp.s. c 6:** "(1) Except as provided otherwise in this part, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

(2) Parts IV, VI, VIII, and XIX of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect September 1, 2015.

(3) Part X of this act takes effect October 1, 2016.

(4) Section 1105 of this act takes effect January 1, 2016.

(5) Except for section 2004 of this act, Part XX of this act takes effect January 1, 2019." [2020 c 272 s 5; 2017 c 323 s 301; 2015 3rd sp.s. c 6 s 2301.]

**Tax preference performance statement—2015 3rd sp.s. c 6 ss**

**202-205:** "This section is the tax preference performance statement for the agricultural processor tax exemptions in sections 202 through 205 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to accomplish the general purposes indicated in RCW 82.32.808(2) (c) and (e).

(2) It is the legislature's specific public policy objective to create and retain jobs and continue providing tax relief to the food processing industry.

(3) To measure the effectiveness of the exemptions in sections 202 through 205 of this act in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the following:

(a) The number of businesses that claim the exemptions in sections 202 through 205 of this act;

(b) The change in total taxable income for taxpayers claiming the exemptions under sections 202 through 205 of this act;

(c) The change in total employment for taxpayers claiming the exemptions under sections 202 through 205 of this act; and

(d) For each calendar year, the total amount of exemptions claimed under sections 202 through 205 of this act as a percentage of total taxable income for taxpayers within taxable income categories.

(4) The information provided in the annual survey submitted by the taxpayers under \*RCW 82.32.585, tax data collected by the department of revenue, and data collected by the employment security department is intended to provide the informational basis for the evaluation under subsection (3) of this section.

(5) In addition to the data sources described under subsection (4) of this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under subsection (3) of this section." [2015 3rd sp.s. c 6 s 201.]

**\*Reviser's note:** RCW 82.32.585 was repealed by 2017 c 135 s 2, effective January 1, 2018.

**Existing rights, liabilities, or obligations—Effective dates—**

**Contingent effective dates—2012 2nd sp.s. c 6:** See notes following RCW 82.04.29005.

**Findings—Construction—2011 c 2 (Initiative Measure No. 1107):**

See notes following RCW 82.08.0293.

**Expiration date—2010 1st sp.s. c 23 ss 503, 505, and 514:**

"Sections 503, 505, and 514 of this act expire June 10, 2010." [2010 1st sp.s. c 23 s 1711.]

**Effective date—2010 1st sp.s. c 23 ss 504, 506, and 515:**

"Sections 504, 506, and 515 of this act are necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and take effect June 10, 2010." [2010 1st sp.s. c 23 s 1712.]

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Effective dates—2006 c 354:** See note following RCW 82.04.4268.

**Effective dates—2005 c 513:** "This act takes effect July 1, 2007, except for sections 1 through 3 of this act which are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005, and section 5, chapter 513, Laws of 2005, which takes effect April 30, 2007." [2007 c 243 s 1; 2005 c 513 s 14.]

**RCW 82.04.4267 Exemptions—Operation of parking/business improvement areas.** This chapter does not apply to amounts received by a chamber of commerce or other similar business association for administering the operation of a parking and business improvement area as defined in RCW 35.87A.110. [2005 c 476 s 1.]

**RCW 82.04.4268 Exemptions—Dairy product businesses. (Expires July 1, 2035.)** (1)(a) In computing tax there may be deducted from the measure of tax, the value of products or the gross proceeds of sales derived from:

(i) Manufacturing dairy products; or

(ii) Except as provided otherwise in (b) of this subsection, selling dairy products manufactured by the seller to purchasers who either transport in the ordinary course of business the goods out of this state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product. A person taking an exemption under this subsection (1)(a)(ii) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(b) The exemption provided under (a)(ii) of this subsection does not apply to the sales of dairy products on or after July 1, 2025, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product.

(2) "Dairy products" has the same meaning as provided in RCW 82.04.260.

(3) A person claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires July 1, 2035. [2023 c 422 s 2; 2020 c 139 s 6; 2015 3rd sp.s. c 6 s 203; 2013 2nd sp.s. c 13 s 204; 2012 2nd sp.s. c 6 s 202; 2010 c 114 s 112; 2006 c 354 s 1.]

**Tax preference performance statement—2023 c 422 ss 2-5: "(1)**

This section is the tax preference performance statement for the tax preferences contained in sections 2 through 5, chapter 422, Laws of 2023. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to create or retain jobs and provide tax relief for certain businesses or individuals as indicated in RCW 82.32.808(2) (c) and (e).

(3) It is the legislature's specific public policy objective to create and retain jobs and continue providing tax relief to the food processing industry.

(4) To measure the effectiveness of the exemptions in sections 2 through 5 of this act in achieving the public policy objectives described in subsection (3) of this section, the joint legislative audit and review committee must evaluate the following:

(a) The number of businesses that claim the exemptions in sections 2 through 5 of this act;

(b) The change in total taxable income for taxpayers claiming the exemptions under sections 2 through 5 of this act;

(c) The change in total employment for taxpayers claiming the exemptions under sections 2 through 5 of this act; and

(d) For each calendar year, the total amount of exemptions claimed under sections 2 through 5 of this act as a percentage of total taxable income for taxpayers within taxable income categories.

(5) The information provided in the annual report submitted by the taxpayers under RCW 82.32.534, tax data collected by the department of revenue, and data collected by the employment security department is intended to provide the informational basis for the evaluation under subsection (4) of this section.

(6) In addition to the data sources described under subsection (5) of this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under subsection (4) of this section." [2023 c 422 s 1.]

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Tax preference performance statement—2015 3rd sp.s. c 6 ss 202-205:** See note following RCW 82.04.4266.

**Intent—2013 2nd sp.s. c 13:** See note following RCW 82.04.260.

**Effective date—2013 2nd sp.s. c 13:** See note following RCW 82.04.43393.

**Existing rights, liabilities, or obligations—Effective dates—Contingent effective dates—2012 2nd sp.s. c 6:** See notes following RCW 82.04.29005.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Effective dates—2006 c 354:** "(1) Except as otherwise provided in this section, this act takes effect July 1, 2006.

(2) Sections 6 through 9 and 11 of this act take effect July 1, 2007.

(3) Sections 12 and 13 of this act take effect July 1, 2012." [2006 c 354 s 18.]

**RCW 82.04.4269 Exemptions—Seafood product businesses. (Expires July 1, 2035.)** (1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or

(b) Selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) A person claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) This section expires July 1, 2035. [2023 c 422 s 4; 2020 c 139 s 7; 2015 3rd sp.s. c 6 s 204; 2012 2nd sp.s. c 6 s 203; 2010 c 114 s 113; 2006 c 354 s 2.]

**Tax preference performance statement—2023 c 422 ss 2-5:** See note following RCW 82.04.4268.

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Tax preference performance statement—2015 3rd sp.s. c 6 ss 202-205:** See note following RCW 82.04.4266.

**Existing rights, liabilities, or obligations—Effective dates—Contingent effective dates—2012 2nd sp.s. c 6:** See notes following RCW 82.04.29005.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Effective dates—2006 c 354:** See note following RCW 82.04.4268.

**RCW 82.04.427 Exemptions and credits—Pollution control facilities.** See chapter 82.34 RCW.

**RCW 82.04.4271 Deductions—Membership fees and certain service fees by nonprofit youth organization.** In computing tax due under this

chapter, there may be deducted from the measure of tax all amounts received by a nonprofit youth organization:

(1) As membership fees or dues, irrespective of the fact that the payment of the membership fees or dues to the organization may entitle its members, in addition to other rights or privileges, to receive services from the organization or to use the organization's facilities; or

(2) From members of the organization for camping and recreational services provided by the organization or for the use of the organization's camping and recreational facilities.

For purposes of this section: "Nonprofit youth organization" means a nonprofit organization engaged in character building of youth which is exempt from property tax under RCW 84.36.030. [1981 c 74 s 1.]

**RCW 82.04.4272 Deductions—Direct mail delivery charges.** (1) In computing tax there may be deducted from the measure of tax, amounts derived from delivery charges made for the delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

(2) "Delivery charges" and "direct mail" have the same meanings as in RCW 82.08.010. [2005 c 514 s 114.]

**Effective date—2005 c 514:** "Sections 110(5), 114 through 116, 1001, 1003, 1004, 1201, 1311, and 1312 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 17, 2005]." [2005 c 514 s 1303.]

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**RCW 82.04.4274 Deductions—Nonprofit management companies—Personnel performing on-site functions.** (1) In computing tax due under this chapter, there may be deducted from the measure of tax all amounts received by:

(a) A nonprofit property management company from the owner of property for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions;

(b) A property management company from a housing authority for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions; or

(c) A property management company from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions.

(2) The definitions in this subsection apply to this section.

(a) "Personnel performing on-site functions" means a person who meets all of the following conditions:

(i) The person works at the owner's property or centrally performs on-site functions for the property;

(ii) The person's duties include leasing property units, maintaining the property, preparing tenant income certification

paperwork or other compliance documents required to lease the unit, collecting rents, recording rents, or performing similar activities; and

(iii) The property management company, for whom the personnel performing on-site functions works, operates under a written property management agreement.

(b) "Nonprofit property management company" means a property management company that:

(i) Is exempt from the tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, as it exists on January 1, 2010, but only when such organization is providing property management services for low-income housing that has qualified for the property tax exemption under RCW 84.36.560; or

(ii) Is a public corporation established under RCW 35.21.730.

(c) "Housing authority" means a housing authority created pursuant to chapter 35.82 RCW. [2011 1st sp.s. c 26 s 1.]

**Affect on existing rights, liabilities, obligations, and proceedings—2011 1st sp.s. c 26:** "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2011 1st sp.s. c 26 s 3.]

**RCW 82.04.4275 Deductions—Child welfare services.** (1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing child welfare services under a government-funded program.

(2) A person may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) The following definitions apply to this section:

(a) "Child welfare services" has the same meaning as provided in RCW 74.13.020; and

(b) "Health or social welfare organization" has the meaning provided in RCW 82.04.431. [2011 c 163 s 1.]

**Application—2011 c 163:** "This act applies to amounts received by a taxpayer on or after August 1, 2011." [2011 c 163 s 2.]

**RCW 82.04.4276 Deductions—Loans to rural electric cooperatives. (Expires January 1, 2034.)** (1) In computing tax there may be deducted from the measure of tax, amounts received by a cooperative finance organization where the amounts are derived from loans to rural electric cooperatives or other nonprofit or governmental providers of utility services organized under the laws of this state.

(2) For the purposes of this section, the following definitions apply:

(a) "Cooperative finance organization" means a nonprofit organization with the primary purpose of providing, securing, or otherwise arranging financing for rural electric cooperatives.

(b) "Rural electric cooperative" means a nonprofit, customer-owned organization that provides utility services to rural areas.

(3) This section expires January 1, 2034. [2023 c 317 s 2.]

**Tax preference performance statement—2023 c 317 s 2:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 317, Laws of 2023. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to reduce the tax burden on individuals and businesses imposed by the existing business and occupation tax rates.

(4) If the review finds that at least one cooperative finance organization in this state used the deduction, then the legislature intends to extend the expiration date of this tax deduction.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state." [2023 c 317 s 1.]

**Effective date—2023 c 317:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023." [2023 c 317 s 3.]

**RCW 82.04.4281 Deductions—Investments, dividends, interest on loans.** (1) In computing tax there may be deducted from the measure of tax:

(a) Amounts derived from investments;

(b) Amounts derived as dividends or distributions from the capital account by a parent from its subsidiary entities; and

(c) Amounts derived from interest on loans between subsidiary entities and a parent entity or between subsidiaries of a common parent entity, but only if the total investment and loan income is less than five percent of gross receipts of the business annually.

(2) The following are not deductible under subsection (1)(a) of this section:

(a) Amounts received from loans, except as provided in subsection (1)(c) of this section, or the extension of credit to another, revolving credit arrangements, installment sales, the acceptance of payment over time for goods or services, or any of the foregoing that have been transferred by the originator of the same to an affiliate of the transferor; or

(b) Amounts received by a banking, lending, or security business.

(3) The definitions in this subsection apply only to this section.

(a) "Banking business" means a person engaging in business as a national or state-chartered bank, a mutual savings bank, a savings and loan association, a trust company, an alien bank, a foreign bank, a credit union, a stock savings bank, or a similar entity that is chartered under Title \*30, 31, 32, or 33 RCW, or organized under Title 12 U.S.C.

(b) "Lending business" means a person engaged in the business of making secured or unsecured loans of money, or extending credit, and (i) more than one-half of the person's gross income is earned from such activities and (ii) more than one-half of the person's total expenditures are incurred in support of such activities.

(c) The terms "loan" and "extension of credit" do not include ownership of or trading in publicly traded debt instruments, or substantially equivalent instruments offered in a private placement.

(d) "Security business" means a person, other than an issuer, who is engaged in the business of effecting transactions in securities as a broker, dealer, or broker-dealer, as those terms are defined in the securities act of Washington, chapter 21.20 RCW, or the federal securities act of 1933. "Security business" does not include any company excluded from the definition of broker or dealer under the federal investment company act of 1940 or any entity that is not an investment company by reason of sections 3(c)(1) and 3(c)(3) through 3(c)(14) thereof. [2007 c 54 s 9; 2002 c 150 s 2; 1980 c 37 s 2. Formerly RCW 82.04.430(1).]

**\*Reviser's note:** Title 30 RCW was recodified and/or repealed pursuant to 2014 c 37, effective January 5, 2015.

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Findings—Intent—2002 c 150:** "The legislature finds that the application of the business and occupation tax deductions provided in RCW 82.04.4281 for investment income of persons deemed to be "other financial businesses" has been the subject of uncertainty, and therefore, disagreement and litigation between taxpayers and the state. The legislature further finds that the decision of the state supreme court in *Simpson Investment Co. v. Department of Revenue* could lead to a restrictive, narrow interpretation of the deductibility of investment income for business and occupation tax purposes. As a result, the legislature directed the department of revenue to work with affected businesses to develop a revision of the statute that would provide certainty and stability for taxpayers and the state. The legislature intends, by adopting this recommended revision of the statute, to provide a positive environment for capital investment in this state, while continuing to treat similarly situated taxpayers fairly." [2002 c 150 s 1.]

**Effective date—2002 c 150:** "This act takes effect July 1, 2002." [2002 c 150 s 3.]

**Finding—Intent on application of deduction—2001 c 320:** "The legislature finds that the application of the business and occupation tax deduction provided in RCW 82.04.4281 for investment income of persons other than those engaging in banking, loan, security, or other financial businesses has been the subject of disagreement between taxpayers and the state. Decisions of the supreme court have provided some broad guidelines and principles for interpretation of the deduction provided in RCW 82.04.4281, but these decisions have not provided the certainty and clarity that is desired by taxpayers and the state. Therefore, it is the intent of the legislature to delay change in the manner or extent of taxation of the investment income until definitions or standards can be developed and enacted by the legislature." [2001 c 320 s 18.]

**Reviser's note:** 2001 c 320 s 19, which was vetoed May 15, 2001, would have implemented the intent in this section.

**Report to legislature—2001 c 320:** "The department of revenue shall report to the fiscal committees of the legislature by November 30, 2001, on the progress made in working with affected businesses on potential amendments to RCW 82.04.4281 which would clarify the application of RCW 82.04.4281 to other financial businesses." [2001 c 320 s 20.]

**Intent—1980 c 37:** "The separation of sales tax exemption, use tax exemption, and business and occupation deduction sections into shorter sections is intended to improve the readability and facilitate the future amendment of these sections. This separation shall not change the meaning of any of the exemptions or deductions involved." [1980 c 37 s 1.]

**RCW 82.04.4282 Deductions—Fees, dues, charges.** In computing tax there may be deducted from the measure of tax amounts derived from bona fide (1) initiation fees, (2) dues, (3) contributions, (4) donations, (5) tuition fees, (6) charges made by a nonprofit trade or professional organization for attending or occupying space at a trade show, convention, or educational seminar sponsored by the nonprofit trade or professional organization, which trade show, convention, or educational seminar is not open to the general public, (7) charges made for operation of privately operated kindergartens, and (8) endowment funds. This section may not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property, digital goods, digital codes, or digital automated services, or upon providing facilities or other services for which a special charge is made to members or others. If dues are in exchange for any significant amount of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered, the value of such goods or services shall not be considered as a deduction under this section. [2009 c 535 s 410; 1994 c 124 s 3; 1989 c 392 s 1; 1980 c 37 s 3. Formerly RCW 82.04.430(2).]

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4283 Deductions—Cash discount taken by purchaser.** In computing tax there may be deducted from the measure of tax the amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of RCW 82.04.450. [1980 c 37 s 4. Formerly RCW 82.04.430(3).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4284 Deductions—Bad debts.** (1) In computing tax there may be deducted from the measure of tax bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, on which tax was previously paid.

(2) For purposes of this section, "bad debts" do not include:

(a) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;

(b) Expenses incurred in attempting to collect debt;

(c) Sales or use taxes payable to a seller; and

(d) Repossessed property.

(3) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount collected must be paid and reported on the return filed for the period in which the collection is made.

(4) Payments on a previously claimed bad debt must be applied under RCW 82.08.037(4) and 82.12.037, according to such rules as the department may prescribe. [2004 c 153 s 307; 1980 c 37 s 5. Formerly RCW 82.04.430(4).]

**Retroactive effective date—Effective date—2004 c 153:** See note following RCW 82.08.0293.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4285 Deductions—Motor vehicle fuel and special fuel taxes.** In computing tax there may be deducted from the measure of tax so much of the sale price of fuel as constitutes the amount of tax imposed by the state under chapter 82.38 RCW or the United States government, under 26 U.S.C., Subtitle D, chapters 31 and 32, upon the sale thereof. [2013 c 225 s 639; 1998 c 176 s 3; 1980 c 37 s 6. Formerly RCW 82.04.430(5).]

**Effective date—2013 c 225:** See note following RCW 82.38.010.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4286 Deductions—Nontaxable business.** In computing tax there may be deducted from the measure of tax amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States. [1980 c 37 s 7. Formerly RCW 82.04.430(6).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4287 Deductions—Compensation for receiving, washing, etc., horticultural products for person exempt under RCW 82.04.330—Materials and supplies used.** In computing tax there may be deducted from the measure of tax amounts derived by any person as compensation for the receiving, washing, sorting, and packing of fresh perishable horticultural products and the material and supplies used therein when performed for the person exempted in RCW 82.04.330, either as agent or as independent contractor. [1980 c 37 s 8. Formerly RCW 82.04.430(7).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

*Sales and use tax exemption for materials and supplies used in packing horticultural products: RCW 82.08.0311 and 82.12.0311.*

**RCW 82.04.4289 Exemption—Compensation for patient services or attendant sales of drugs dispensed pursuant to prescription by certain nonprofit organizations.** This chapter does not apply to amounts derived as compensation for services rendered to patients or from sales of drugs for human use pursuant to a prescription furnished as an integral part of services rendered to patients by a kidney dialysis facility operated as a nonprofit corporation, a nonprofit hospice agency licensed under chapter 70.127 RCW, and nursing homes and homes for unwed mothers operated as religious or charitable organizations, but only if no part of the net earnings received by such an institution inures directly or indirectly, to any person other than the institution entitled to deduction hereunder. "Prescription" and "drug" have the same meaning as in RCW 82.08.0281. [2003 c 168 s 402; 1998 c 325 s 1; 1993 c 492 s 305; 1981 c 178 s 2; 1980 c 37 s 10. Formerly RCW 82.04.430(9).]

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Findings—Intent—1993 c 492:** See notes following RCW 43.20.050.

**Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4290 Deductions—Mental health services or substance use disorder treatment services. (Expires January 1, 2032.)** (1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing mental health services or substance use disorder treatment services under a government-funded program.

(2) A behavioral health administrative services organization may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) A person claiming a deduction under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

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

(a) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(b) "Health or social welfare organization" has the same meaning as provided in RCW 82.04.431.

(c) "Mental health services" means mental health services as described in chapter 71.24 RCW.

(d) "Substance use disorder treatment services" means substance use disorder treatment services as described in chapter 71.24 RCW.

(5) This section expires January 1, 2032. [2021 c 124 s 3.]

**Finding—Intent—2021 c 124:** "The legislature finds that COVID-19 has had significant impacts on behavioral health. The legislature previously had a feature of its tax system that exempted government-funded behavioral health services from paying business and occupation tax in order for more tax dollars to be utilized in providing health services. The legislature intends to reenact that preference in light of increased behavioral health needs for the foreseeable future, and in recognition that treatment reduces costs to the government in other services." [2021 c 124 s 1.]

**Tax preference performance statement—2021 c 124:** "(1) This section is the tax preference performance statement for the tax preference contained in section 3, chapter 124, Laws of 2021. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to accomplish a general purpose, reducing taxes so more money can go directly to behavioral health services, as indicated in RCW 82.32.808(2)(f).

(3) It is the legislature's specific public policy objective to support behavioral health services that can prevent more serious and costly health issues.

(4) If a review finds that the amount of funding available for behavioral health services by these taxpayers increased, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state." [2021 c 124 s 2.]

**Effective date—2021 c 124:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 26, 2021]." [2021 c 124 s 4.]

**RCW 82.04.4291 Deductions—Compensation received by a political subdivision from another political subdivision for services taxable under RCW 82.04.290.** In computing tax there may be deducted from the measure of tax amounts derived by a political subdivision of the state of Washington from another political subdivision of the state of Washington as compensation for services which are within the purview of RCW 82.04.290. [1980 c 37 s 11. Formerly RCW 82.04.430(10).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4292 Deductions—Interest on investments or loans secured by mortgages or deeds of trust.** (1) In computing tax there

may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(2) Interest deductible under this section includes the portion of fees charged to borrowers, including points and loan origination fees, that is recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles.

(3) Subsections (1) and (2) of this section notwithstanding, the following is a nonexclusive list of items that are not deductible under this section:

(a) Fees for specific services such as: Document preparation fees; finder fees; brokerage fees; title examination fees; fees for credit checks; notary fees; loan application fees; interest lock-in fees if the loan is not made; servicing fees; and similar fees or amounts;

(b) Fees received in consideration for an agreement to make funds available for a specific period of time at specified terms, commonly referred to as commitment fees;

(c) Any other fees, or portion of a fee, that is not recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles;

(d) Gains on the sale of valuable rights such as service release premiums, which are amounts received when servicing rights are sold; and

(e) Gains on the sale of loans, except deferred loan origination fees and points deductible under subsection (2) of this section, are not to be considered part of the proceeds of sale of the loan.

(4) Notwithstanding subsection (3) of this section, in computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security, or other financial businesses, amounts received for servicing loans primarily secured by first mortgages or trust deeds on nontransient residential properties, including such loans that secure mortgage-backed or mortgage-related securities, but only if:

(a)(i) The loans were originated by the person claiming a deduction under this subsection (4) and that person either sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; or

(ii)(A) The person claiming a deduction under this subsection (4) acquired the loans from the person that originated the loans through a merger or acquisition of substantially all of the assets of the person who originated the loans, or the person claiming a deduction under this subsection (4) is affiliated with the person that originated the loans. For purposes of this subsection, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(B) Either the person who originated the loans or the person claiming a deduction under this subsection (4) sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; and

(b) The amounts received for servicing the loans are determined by a percentage of the interest paid by the borrower and are only received if the borrower makes interest payments.

(5) The deductions provided in this section do not apply to persons subject to tax under RCW 82.04.29005.

(6) By June 30, 2015, the joint legislative audit and review committee must review the deductions provided in this section in accordance with RCW 43.136.055 and make a recommendation as to whether the deductions should be continued without modification, modified, or terminated immediately. [2012 2nd sp.s. c 6 s 102; 2010 1st sp.s. c 23 s 301; 1980 c 37 s 12. Formerly RCW 82.04.430(11).]

**Existing rights, liabilities, or obligations—Effective dates—Contingent effective dates—2012 2nd sp.s. c 6:** See notes following RCW 82.04.29005.

**Effective date—2010 1st sp.s. c 23:** "Parts III and XIII and sections 101 through 106, 108 through 112, 501 through 503, 505, 507, 510 through 514, 516 through 519, 901, 903 through 911, and 1201 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2010." [2010 1st sp.s. c 23 s 1709.]

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4293 Deductions—Interest on obligations of the state, its political subdivisions, and municipal corporations.** In computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest paid on all obligations of the state of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. [1980 c 37 s 13. Formerly RCW 82.04.430(12).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4294 Deductions—Interest on loans to farmers and ranchers, producers or harvesters of aquatic products, or their cooperatives.** In computing tax there may be deducted from the measure of tax amounts derived as interest on loans to bona fide farmers and ranchers, producers or harvesters of aquatic products, or their cooperatives by a lending institution which is owned exclusively by its borrowers or members and which is engaged solely in the business of making loans and providing finance-related services to bona fide farmers and ranchers, producers or harvesters of aquatic products, their cooperatives, rural residents for housing, or persons engaged in furnishing farm-related or aquatic-related services to these individuals or entities. [1980 c 37 s 14. Formerly RCW 82.04.430(13).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4295 Deductions—Manufacturing activities completed outside the United States.** In computing tax there may be deducted from the measure of tax by persons subject to payment of the tax on manufacturers pursuant to RCW 82.04.240, the value of articles to the extent of manufacturing activities completed outside the United States, if:

(1) Any additional processing of such articles in this state consists of minor final assembly only; and

(2) In the case of domestic manufacture of such articles, can be and normally is done at the place of initial manufacture; and

(3) The total cost of the minor final assembly does not exceed two percent of the value of the articles; and

(4) The articles are sold and shipped outside the state. [1980 c 37 s 15. Formerly RCW 82.04.430(14).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4296 Deductions—Reimbursement for accommodation expenditures by funeral homes.** In computing tax there may be deducted from the measure of tax that portion of amounts received by any funeral home licensed to do business in this state which is received as reimbursements for expenditures (for goods supplied or services rendered by a person not employed by or affiliated or associated with the funeral home) and advanced by such funeral home as an accommodation to the persons paying for a funeral, so long as such expenditures and advances are billed to the persons paying for the funeral at only the exact cost thereof and are separately itemized in the billing statement delivered to such persons. [1980 c 37 s 16. Formerly RCW 82.04.430(15).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4297 Deductions—Compensation from public entities for health or social welfare services—Exception.** In computing tax there may be deducted from the measure of tax amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization, as defined in RCW 82.04.431, or by a municipal corporation or political subdivision, except deductions are not allowed under this section for amounts that are received under an employee benefit plan. [2011 1st sp.s. c 19 s 2; 2002 c 314 s 3; 2001 2nd sp.s. c 23 s 2; 1988 c 67 s 1; 1980 c 37 s 17. Formerly RCW 82.04.430(16).]

**Application—2011 1st sp.s. c 19:** "This act applies to amounts received by a taxpayer on or after August 1, 2011." [2011 1st sp.s. c 19 s 4.]

**Findings—Refund of taxes—Effective date—2002 c 314:** See notes following RCW 82.04.4311.

**Findings—2001 2nd sp.s. c 23:** "The legislature finds that the deduction under the business and occupation tax statutes for

compensation from public entities for health or social welfare services was intended to provide government with greater purchasing power when government provides financial support for the provision of health or social welfare services to benefited classes of persons. The legislature also finds that both the legislature and the United States congress have in recent years modified government-funded health care programs to encourage participation by beneficiaries in highly regulated managed care programs operated by persons who act as intermediaries between government entities and health or social welfare organizations. The legislature further finds that the objective of these changes is again to extend the purchasing power of scarce government health care resources, but that this objective would be thwarted to a significant degree if the business and occupation tax deduction were lost by health or social welfare organizations solely on account of their participation in managed care for government-funded health programs. In keeping with the original purpose of the health or social welfare deduction, it is desirable to ensure that compensation received from government sources through contractual managed care programs also be deductible." [2001 2nd sp.s. c 23 s 1.]

**Effective date—2001 2nd sp.s. c 23:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 13, 2001]." [2001 2nd sp.s. c 23 s 4.]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

*"Health or social welfare organization" defined—Conditions for exemption—"Health or social welfare services" defined: RCW 82.04.431.*

**RCW 82.04.4298 Deductions—Repair, maintenance, replacement, etc., of residential structures and commonly held property—Eligible organizations. (Effective until January 1, 2028.)** (1) In computing tax there may be deducted from the measure of tax amounts used solely for repair, maintenance, replacement, management, or improvement of the residential structures and commonly held property, but excluding property where fees or charges are made for use by the public who are not guests accompanied by a member, which are derived by:

(a) A cooperative housing association, corporation, or partnership from a person who resides in a structure owned by the cooperative housing association, corporation, or partnership;

(b) An association of owners of property as defined in RCW 64.32.010, as now or hereafter amended, from a person who is an apartment owner as defined in RCW 64.32.010; or

(c) An association of owners of residential property from a person who is a member of the association. "Association of owners of residential property" means any organization of all the owners of residential property in a defined area who all hold the same property in common within the area.

(2) For the purposes of this section "commonly held property" includes areas required for common access such as reception areas, halls, stairways, parking, etc., and may include recreation rooms, swimming pools and small parks or recreation areas; but is not

intended to include more grounds than are normally required in a residential area, or to include such extensive areas as required for golf courses, campgrounds, hiking and riding areas, boating areas, etc.

(3) To qualify for the deductions under this section:

(a) The salary or compensation paid to officers, managers, or employees must be only for actual services rendered and at levels comparable to the salary or compensation of like positions within the county wherein the property is located;

(b) Dues, fees, or assessments in excess of amounts needed for the purposes for which the deduction is allowed must be rebated to the members of the association;

(c) Assets of the association or organization must be distributable to all members and must not inure to the benefit of any single member or group of members. [1980 c 37 s 18. Formerly RCW 82.04.430(17).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.4298 Deductions—Repair, maintenance, replacement, management, or improvement of residential structures and common elements—Eligible organizations. (Effective January 1, 2028.)** (1) In computing tax there may be deducted from the measure of tax amounts used solely for repair, maintenance, replacement, management, or improvement of the residential structures and common elements, but excluding property where fees or charges are made for use by the public who are not guests accompanied by a member, which are derived by:

(a) A cooperative, corporation, or partnership from a person who resides in a structure owned by the cooperative, corporation, or partnership;

(b) A condominium from a person who is a unit owner; or

(c) A plat community or miscellaneous community from a unit owner.

(2) For the purposes of this section "common elements," "condominium," "cooperative," "plat community," and "miscellaneous community" have the meaning given in RCW 64.90.010.

(3) To qualify for the deductions under this section:

(a) The salary or compensation paid to officers, managers, or employees must be only for actual services rendered and at levels comparable to the salary or compensation of like positions within the county wherein the property is located;

(b) Dues, fees, or assessments in excess of amounts needed for the purposes for which the deduction is allowed must be rebated to the members of the association;

(c) Assets of the association or organization must be distributable to all members and must not inure to the benefit of any single member or group of members. [2024 c 321 s 432; 1980 c 37 s 18. Formerly RCW 82.04.430(17).]

**Effective dates—2024 c 321 ss 319 and 401-432:** See note following RCW 64.90.485.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**RCW 82.04.431 "Health or social welfare organization" defined—  
Conditions for exemption—"Health or social welfare services" defined.**

(1) The term "health or social welfare organization" means an organization, including any community action council, which renders health or social welfare services as defined in subsection (2) of this section, which is a domestic or foreign nonprofit corporation under chapter 24.03A RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or which is a corporation sole under chapter 24.12 RCW. Health or social welfare organization does not include a corporation providing professional services as authorized in chapter 18.100 RCW. In addition a corporation in order to be exempt under RCW 82.04.4297 must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public service of the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;

(e) The amounts received qualifying for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue must have access to its books in order to determine whether the corporation is exempt from taxes within the intent of RCW 82.04.4297 and this section.

(2) The term "health or social welfare services" includes and is limited to:

(a) Mental health, drug, or alcoholism counseling or treatment;

(b) Family counseling;

(c) Health care services;

(d) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically, developmentally, or emotionally-disabled individuals;

(e) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;

(f) Care of orphans or foster children;

(g) Day care of children;

(h) Employment development, training, and placement;

(i) Legal services to the indigent;

(j) Weatherization assistance or minor home repair for low-income homeowners or renters;

(k) Assistance to low-income homeowners and renters to offset the cost of home heating energy, through direct benefits to eligible households or to fuel vendors on behalf of eligible households;

(l) Community services to low-income individuals, families, and groups, which are designed to have a measurable and potentially major impact on causes of poverty in communities of the state; and

(m) Temporary medical housing, as defined in RCW 82.08.997, if the housing is provided only:

(i) While the patient is receiving medical treatment at a hospital required to be licensed under RCW 70.41.090 or at an outpatient clinic associated with such hospital, including any period of recuperation or observation immediately following such medical treatment; and

(ii) By a person that does not furnish lodging or related services to the general public. [2021 c 176 s 5246; 2011 1st sp.s. c 19 s 3; 2008 c 137 s 1; 1986 c 261 s 6; 1985 c 431 s 3; 1983 1st ex.s. c 66 s 1; 1980 c 37 s 80; 1979 ex.s. c 196 s 6.]

**Effective date—2021 c 176:** See note following RCW 24.03A.005.

**Application—2011 1st sp.s. c 19:** See note following RCW 82.04.4297.

**Effective date—2008 c 137:** See note following RCW 82.08.997.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**Effective date—1979 ex.s. c 196:** See note following RCW 82.04.240.

**RCW 82.04.4311 Deductions—Compensation received under the federal medicare program by certain hospitals or health centers.** (1) A public hospital that is owned by a municipal corporation or political subdivision, or a nonprofit hospital, or a nonprofit community health center, or a network of nonprofit community health centers, that qualifies as a health and social welfare organization as defined in RCW 82.04.431, may deduct from the measure of tax amounts received as compensation for health care services covered under the federal medicare program authorized under Title XVIII of the federal social security act; medical assistance, children's health, or other program under chapter 74.09 RCW; or for the state of Washington basic health plan under chapter 70.47 RCW. The deduction authorized by this section does not apply to amounts received from patient copayments or patient deductibles.

(2) As used in this section, "community health center" means a federally qualified health center as defined in 42 U.S.C. 1396d as existing on August 1, 2005. [2005 c 86 s 1; 2002 c 314 s 2.]

**Effective date—2005 c 86:** "This act takes effect August 1, 2005." [2005 c 86 s 2.]

**Findings—2002 c 314:** "The legislature finds that the provision of health services to those people who receive federal or state subsidized health care benefits by reason of age, disability, or lack of income is a recognized, necessary, and vital governmental function. As a result, the legislature finds that it would be inconsistent with that governmental function to tax amounts received by a public hospital or nonprofit hospital qualifying as a health and social

welfare organization, when the amounts are paid under a health service program subsidized by federal or state government. Further, the tax status of these amounts should not depend on whether the amounts are received directly from the qualifying program or through a managed health care organization under contract to manage benefits for a qualifying program. Therefore, the legislature adopts this act to provide a clear and understandable deduction for these amounts, and to provide refunds for taxes paid as specified in section 4 of this act." [2002 c 314 s 1.]

**Refund of taxes—2002 c 314:** "A public hospital owned by a municipal corporation or political subdivision, or a nonprofit hospital that qualifies as a health and social welfare organization under RCW 82.04.431, is entitled to:

(1) A refund of business and occupation tax paid between January 1, 1998, and April 2, 2002, on amounts that would be deductible under section 2 of this act; and

(2) A waiver of tax liability for accrued, but unpaid taxes that would be deductible under section 2 of this act." [2002 c 314 s 4.]

**Effective date—2002 c 314:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 2, 2002]." [2002 c 314 s 5.]

**RCW 82.04.432 Deductions—Municipal sewer service fees or charges.** In computing the tax imposed by this chapter, municipal sewerage utilities and other public corporations imposing and collecting fees or charges for sewer service may deduct from the measure of the tax, amounts paid to another municipal corporation or governmental agency for sewerage interception, treatment or disposal. [1967 ex.s. c 149 s 17.]

**RCW 82.04.4327 Deductions—Artistic and cultural organizations.** In computing tax under this chapter, an artistic or cultural organization may deduct from the measure of tax:

(1) All amounts received by the artistic or cultural organization; and

(2) The value of articles manufactured by the artistic or cultural organization solely for use by the organization in displaying art objects or presenting artistic or cultural exhibitions, performances, or programs for attendance or viewing by the general public. [2020 c 139 s 8; 1985 c 471 s 6.]

**Severability—Effective date—1985 c 471:** See notes following RCW 82.04.260.

*"Artistic or cultural organization" defined: RCW 82.04.4328.*

**RCW 82.04.4328 "Artistic or cultural organization" defined.** (1) For the purposes of RCW 82.04.4327, 82.08.031, and 82.12.031, the term "artistic or cultural organization" means an organization that is organized and operated exclusively for the purpose of providing

artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (2) of this section, for viewing or attendance by the general public. The organization must be a nonprofit corporation under chapter 24.03A RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, to qualify for deduction or exemption from taxation under RCW 82.04.4327, 82.08.031, and 82.12.031, the corporation must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The amounts received that qualify for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue must have access to its books in order to determine whether the corporation is exempt from taxes.

(2) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances;

or  
(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject. [2021 c 176 s 5247; 2020 c 139 s 9; 1985 c 471 s 7; 1981 c 140 s 6.]

**Effective date—2021 c 176:** See note following RCW 24.03A.005.

**Severability—Effective date—1985 c 471:** See notes following RCW 82.04.260.

**RCW 82.04.433 Deductions—Sales of fuel for consumption outside United States' waters by vessels in foreign commerce.** (1) In computing tax there may be deducted from the measure of tax imposed under RCW 82.04.250 and 82.04.270 amounts derived from sales of fuel for consumption outside the territorial waters of the United States, by vessels used primarily in foreign commerce.

(2) The deduction in subsection (1) of this section does not apply with respect to the tax imposed under RCW 82.04.240, whether the value of the fuel under that tax is measured by the gross proceeds derived from the sale thereof or otherwise under RCW 82.04.450. [2009 c 494 s 2; 1985 c 471 s 16.]

**Intent—Finding—2009 c 494:** "(1) Through this act the legislature intends to address the taxation of persons manufacturing and/or selling bunker fuel. Bunker fuel is fuel intended for consumption outside the waters of the United States by vessels in foreign commerce. Although the state has historically collected tax from bunker fuel manufacturers, recently questions have arisen whether the manufacture of bunker fuel is subject to business and occupation tax under RCW 82.04.240. Pursuant to this act, the activity is taxable under RCW 82.04.240.

(2) The legislature finds that at the time the deduction allowed under RCW 82.04.433 was enacted in 1985, it was intended to apply only to the wholesaling or retailing of bunker fuel. In 1987 the legislature enacted the multiple activities tax credit in RCW 82.04.440. Enactment of the multiple activities tax credit resulted in changed tax liability for certain taxpayers. In particular, some taxpayers that engaged in activities that had been exempt under the prior multiple activities exemption became subject to tax on manufacturing activities upon enactment of the multiple activities tax credit in its place. The manufacturing of bunker fuel is one such activity." [2009 c 494 s 1.]

**Administration—2009 c 494:** "The department of revenue must take any actions that are necessary to ensure that its rules and other interpretive statements are consistent with this act." [2009 c 494 s 3.]

**Application—2009 c 494:** "This act applies both prospectively and retroactively." [2009 c 494 s 4.]

**Effective date—2009 c 494:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2009]." [2009 c 494 s 6.]

**Severability—Effective date—1985 c 471:** See notes following RCW 82.04.260.

**RCW 82.04.4331 Deductions—Insurance claims for state health care coverage.** In computing tax, insurers as defined by RCW 48.01.050, may deduct from the measure of tax amounts paid out for claims incurred before July 1, 1990, for covered health services under medical and dental coverage purchased under chapter 41.05 RCW. [1988 c 107 s 33.]

**Implementation—Effective dates—1988 c 107:** See RCW 41.05.901.

**RCW 82.04.4332 Deductions—Tuition fees of foreign degree-granting institutions.** An approved branch campus of a foreign degree-

granting institution in compliance with chapter 28B.90 RCW is considered an educational institution for the purpose of the deduction of tuition fees provided by RCW 82.04.170 in those instances where it is recognized as an organization exempt from income taxes pursuant to 26 U.S.C. Sec. 501(c). [1993 c 181 s 10.]

**RCW 82.04.4337 Deductions—Certain amounts received by assisted living facilities.** (1) An assisted living facility licensed under chapter 18.20 RCW may deduct from the measure of tax amounts received as compensation for providing adult residential care, enhanced adult residential care, or assisted living services under contract with the department of social and health services authorized by chapter 74.39A RCW to residents who are medicaid recipients.

(2) For purposes of this section, "adult residential care," "enhanced adult residential care," and "assisted living services" have the same meaning as in RCW 74.39A.009. [2012 c 10 s 72; 2004 c 174 s 7.]

**Application—2012 c 10:** See note following RCW 18.20.010.

**Effective date—2004 c 174:** See note following RCW 82.04.2908.

**RCW 82.04.4339 Deductions—Salmon recovery grants.** (1) In computing tax there may be deducted from the measure of tax amounts received by a nonprofit organization from the United States or any instrumentality thereof, the state of Washington or any municipal corporation or political subdivision thereof, or an Indian tribe as defined in RCW 43.06.523, as salmon recovery grants.

(2) For the purposes of this section, the following definitions apply:

(a) "Nonprofit organization" has the same meaning as in RCW 82.04.3651.

(b) "Salmon recovery grant" means, solely for the purposes of this section, financial assistance provided to primarily benefit the public as a whole by renewing, restoring, or protecting, by human intervention, salmon ecosystems or salmon habitats in this state, whether or not such financial assistance furthers the regulatory activities of the grantor. [2021 c 143 s 1; 2004 c 241 s 1.]

**Automatic expiration date and tax preference performance statement exemption—2021 c 143:** "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2021 c 143 s 6.]

**Effective date—2021 c 143:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 26, 2021]." [2021 c 143 s 7.]

**Effective date—2004 c 241:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2004]." [2004 c 241 s 2.]

**RCW 82.04.43391 Deductions—Commercial aircraft loan interest and fees.** (1) In computing tax there may be deducted from the measure of tax interest and fees on loans secured by commercial aircraft primarily used to provide routine air service and owned by:

(a) An air carrier, as defined in RCW 82.42.010, which is primarily engaged in the business of providing passenger air service;  
(b) An affiliate of such air carrier; or  
(c) A parent entity for which such air carrier is an affiliate.

(2) The deduction authorized under this section is not available to any person who is physically present in this state as determined under RCW 82.04.067.

(3) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person is "affiliated," as defined in RCW 82.04.645, with another person; and

(b) "Commercial aircraft" means a commercial airplane as defined in RCW 82.32.550. [2019 c 8 s 703; 2017 c 323 s 503; 2010 1st sp.s. c 23 s 112.]

**Effective date—2019 c 8 ss 102, 103, 107, and 701-703:** See note following RCW 82.04.067.

**Existing rights and liability—Retroactive application—2019 c 8:** See notes following RCW 82.02.250.

**Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323:** See note following RCW 82.04.040.

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.43392 Deductions—Qualified dispute resolution centers.** (1) A qualified dispute resolution center may deduct from the measure of tax amounts received as a contribution from federal, state, or local governments and nonprofit organizations for providing dispute resolution services.

(2) A nonprofit organization may deduct from the measure of tax amounts received from federal, state, or local governments for distribution to a qualified dispute resolution center.

(3) A qualified dispute resolution center must:

(a) Be established under chapter 7.75 RCW; and  
(b) Provide services either without charge to the participants or for a fee that is based on the participant's ability to pay, as required by RCW 7.75.030.

(4) As used in this section, a "nonprofit organization" has the same meaning as in RCW 82.04.3651(2). [2012 c 249 s 1.]

**RCW 82.04.43393 Deductions—Paymaster services.** (1) In computing tax there may be deducted from the measure of tax, amounts that a qualified employer of record engaged in providing paymaster services receives from an affiliated business to cover employee costs of a qualified employee. However, no exclusion is allowed under this section for any employee costs incurred in connection with a contractual obligation of the taxpayer to provide services, including staffing services as defined in RCW 82.04.540.

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

(a) "Affiliated" has the same meaning as provided in RCW 82.32.655(7).

(b) "Employee costs" are the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of an employee.

(c) "Functional employment relationship" means having control over the work schedule and activities of the employees and control over all employment decisions such as salary, discipline, hiring, or layoffs.

(d) "Paymaster services" means providing payroll and related human resource services.

(e) "Qualified employee" means an employee with whom the affiliated business has a functional employment relationship. Neither the employer of record, nor any other affiliate, may have a functional employment relationship with the employee.

(f) "Qualified employer of record" is a person who:

(i) Has no functional employment relationship with a qualified employee; and

(ii) Has no contractual liability with a qualified employee for the employee costs. A qualified employer of record may have statutory or common law liability to the qualified employees or to third parties for employee costs.

(3) RCW 82.32.805(1) does not apply to the deduction authorized in this section. [2013 2nd sp.s. c 13 s 102.]

**Findings—Intent—2013 2nd sp.s. c 13:** "(1) The legislature finds that the supreme court's decision in *William Rogers v. Tacoma*, while clarifying the taxation of temporary staffing agencies, resulted in differing interpretations of regulatory requirements in order to qualify for a pass-through exclusion from Washington B&O taxes for payroll reimbursements made within an affiliated group.

(2) The legislature passed Second Engrossed Substitute Senate Bill No. 6143 during the 2010 legislative session that directed the department of revenue to conduct a review and provide a report on the state's tax policies with respect to the taxation of intercompany transactions. The report affirms that centralized payroll reporting systems can result in an additional layer of tax for Washington businesses. Exclusions for payroll reimbursements allow businesses to have efficient administrative costs without incurring an additional tax obligation resulting exclusively from streamlining payroll processes. Further, this treatment of allowing for an exclusion of payroll cost reimbursements within a centralized payroll system is consistent with historical tax practices of the department of revenue prior to the *William Rogers* decision.

(3) The department of revenue continues to work with taxpayers to study taxation of transactions within and between affiliated business

organizations in order to determine the appropriate policies and to identify areas where statutory and regulatory changes may be necessary.

(4) The legislature finds that the tax policy of allowing exclusions for payroll cost reimbursements within a centralized payroll reporting system is appropriate and should be affirmed. The legislature adopts the historical tax policy of allowing exclusions for payroll cost reimbursements within a centralized payroll reporting system of an affiliated group and requires the implementation of such tax policy from October 1, 2013. In affirming this tax policy, the legislature also intends to monitor these transactions to ensure they are being used appropriately and not for tax avoidance purposes and to monitor the potential impact on state revenue collections. The legislature does not intend for part I of this act to retroactively create a right of refund for taxes paid on payroll cost reimbursements prior to the enactment of this statute." [2013 2nd sp.s. c 13 s 101.]

**Effective date—2013 2nd sp.s. c 13:** "Except as otherwise provided in this act, this act takes effect October 1, 2013." [2013 2nd sp.s. c 13 s 1904.]

**RCW 82.04.43395 Deductions—Accountable community of health.**

(1) An accountable community of health may deduct from the measure of tax delivery system reform incentive payments, medicaid transformation project funding, or both, distributed by the Washington state health care authority, as described in Sec. 1115 medicaid demonstration project number 11-W-00304/0, as approved by the centers for medicare and medicaid services in accordance with Sec. 1115(a) of the social security act.

(2) A hospital that is owned by a municipal corporation or political subdivision, or a hospital that is affiliated with a state institution, may deduct from the measure of tax either or both of the following:

(a) Incentive payments received through the medicaid quality improvement program established through 42 C.F.R. 438.6(b)(2);

(b) Delivery system reform incentive payments, medicaid transformation project funding, or both, received through the project described in Sec. 1115 medicaid demonstration project number 11-W-00304/0, approved by the centers for medicare and medicaid services in accordance with Sec. 1115(a) of the social security act.

(3) Managed care organizations may deduct from the measure of tax the incentive payments received for achieving quality performance standards established through 42 C.F.R. 438.6(b)(2), as existing on July 28, 2019.

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

(a) "Accountable community of health" means a regional nonprofit designated by the health care authority to work together with the health care delivery system, health plans, public health, social services, community-based organizations, the justice system, schools, tribal partners, and local government leaders to improve the health equity of their communities as part of Sec. 1115 medicaid demonstration project number 11-W-00304/0.

(b) "Managed care organization" has the same meaning as provided in RCW 74.60.010. [2023 c 313 s 1; 2019 c 350 s 1; 2018 c 102 s 2.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2023 c 313:** "RCW 82.32.805 and 82.32.808 do not apply to this act." [2023 c 313 s 2.]

**Application—2019 c 350:** "The deductions in section 1 of this act apply only with respect to amounts received on or after July 28, 2019, by a hospital that is owned by a municipal corporation or political subdivision, a hospital that is affiliated with a state institution, or a managed care organization." [2019 c 350 s 2.]

**Automatic expiration date and tax preference performance statement exemption—2019 c 350:** "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2019 c 350 s 3.]

**Effective date—2018 c 102:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 15, 2018]." [2018 c 102 s 5.]

**Application—2018 c 102:** "The deductions in section 2 of this act apply only with respect to amounts received on or after March 15, 2018, by an accountable community of health or a hospital that is owned by a municipal corporation or political subdivision." [2018 c 102 s 3.]

**Tax preference performance statement—2018 c 102:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 102, Laws of 2018. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to reduce structural inefficiencies in the tax structure under RCW 82.32.808(2)(d).

(3) The legislature acknowledges the importance of accountable communities of health under \*RCW 41.05.800 in aligning actions to achieve healthy communities and populations, improving health care quality, and lowering costs. It is the legislature's intent to remedy inconsistencies in the tax structure by allowing accountable communities of health to deduct certain funds as amounts subject to business and occupation tax in order to ensure accountable communities of health receive tax relief similar to other nonprofit or public-private health care organizations." [2018 c 102 s 1.]

**\*Reviser's note:** RCW 41.05.800 expired July 1, 2020, pursuant to 2014 c 223 s 21.

**Tax preference performance statement requirement and automatic expiration date exemption—2018 c 102:** "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2018 c 102 s 4.]

**RCW 82.04.43396 Deductions—Scan-down allowances.** (1) In computing tax under RCW 82.04.290(2), a seller may deduct from the measure of tax the amount of scan-down allowances.

(2) For purposes of this section, a provision that the seller must sell at a certain retail price or a specific price reduction does not constitute either:

(a) A service provided by the seller to the manufacturer or wholesaler; or

(b) A business activity directly or indirectly benefiting the manufacturer or wholesaler.

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

(a) "Product" means:

(i) Food and food ingredients other than prepared food, as those terms are defined in RCW 82.08.0293, whether or not exempt from sales tax under RCW 82.08.0293; and

(ii) Pet food and specialty pet food as defined in RCW 15.53.901.

(b) "Scan-down allowance" means a payment or credit offered to a seller by a manufacturer or wholesaler of products, where:

(i) The amount of the payment or credit is based on the quantity of the product to be sold at retail by the seller within a specified period of time;

(ii) The seller knew the terms of the offer before making the sales that generated the payment or credit from the manufacturer or wholesaler; and

(iii) The seller is not required to provide any services to the manufacturer or wholesaler or engage in any business activities directly or indirectly benefiting the manufacturer or wholesaler, in order to receive the payment or credit from the manufacturer or wholesaler. [2019 c 217 s 1.]

**Automatic expiration date and tax preference performance**

**statement exemption—2019 c 217:** "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2019 c 217 s 2.]

**RCW 82.04.434 Credit—Public safety standards and testing.** (1)

There may be credited against the tax imposed by this chapter, the value of services and information relating to setting of standards and testing for public safety provided to the state of Washington, without charge, at the state's request, by a nonprofit corporation that is:

(a) Organized and operated for the purpose of setting standards and testing for public safety; and

(b) Exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(c) Organized with no direct or indirect industry affiliation.

(2) The value of the services and information requested by the state and provided to the state, without charge, shall be determined by the allocation of the cost method using generally accepted accounting standards.

(3) The credit allowed under this section shall be limited to the amount of tax imposed by this chapter. Any unused excess credit in a reporting period may be carried forward to future reporting periods for a maximum of one year. [1991 c 13 s 1.]

**Effective date—1991 c 13:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 13 s 2.]

**RCW 82.04.436 Credit—Manufacture of alternative jet fuel.**

(1) (a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the manufacturing of alternative jet fuel.

(b) Except as provided in (c) of this subsection, the credit under this section is equal to \$1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel and is sold during the prior calendar year by:

(i) A business that produces alternative jet fuel and is located in a qualifying county; or

(ii) A business's designated alternative jet fuel blender that is located in this state.

(c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for each gallon of alternative jet fuel.

(d) A person may not receive credit under both (b) (i) and (ii) of this subsection.

(e) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional petroleum jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

(f) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.

(g) Contract pricing for sales of alternative jet fuel between a person claiming the credit under this section and the final consumer must reflect the per gallon credit under (b) and (c) of this subsection.

(h) A credit under this section may not be claimed until the department of ecology, in consultation with the department of archaeology and historic preservation, verifies that the person applying for the credit is not engaged in the manufacturing of alternative jet fuel on the footprint of a structure listed with the department of archaeology and historic preservation as a historic cemetery or tribal burial grounds as per chapter 27.44 or 68.60 RCW. If the department of ecology has not made a determination within 60 days of the person requesting verification under this subsection, the application is deemed to be verified.

(2) A person may not receive credit under this section for amounts claimed as credits under RCW 82.04.4361 or chapter 82.16 RCW.

(3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.

(4) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) Documentation of the total amount of alternative jet fuel manufactured and sold in the prior calendar year;

(iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the definition in RCW 82.04.287(3) and the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under chapter 70A.535 RCW;

(iv) Documentation sufficient to verify compliance with subsection (1)(g) of this section; and

(v) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.

(5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.

(6) If a person fails to supply the information as required in subsection (4) of this section, the department must deny the application.

(7)(a) The credit under this section may only be claimed against taxes due under RCW 82.04.287, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.

(c) No refunds may be granted for credits under this section.

(8) For the purposes of this section:

(a) "Alternative jet fuel" has the same meaning as in RCW 70A.535.010.

(b) "Carbon dioxide equivalent" has the same meaning as in RCW 70A.45.010.

(c) "Qualifying county" means a county that has a population less than 650,000 at the time an application for a credit under this section is received by the department.

(9)(a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1)(f) of this section was received by the department.

(b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the credit may be earned, as provided in (a) of this subsection.

(10) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534. [2023 c 232 s 10.]

**Tax preference performance statement—Effective date—2023 c 232 ss 9-12:** See notes following RCW 82.04.287.

**Intent—2023 c 232:** See note following RCW 70A.535.010.

**Automatic expiration date exemption—2023 c 232:** See note following RCW 82.04.287.

**RCW 82.04.4361 Credit—Alternative jet fuel.** (1)(a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the use of alternative jet fuel.

(b) Except as provided in (c) of this subsection, the credit under this section is equal to \$1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel and is purchased during the prior calendar year by a business for use as alternative jet fuel for flights departing in this state.

(c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for each gallon of alternative jet fuel.

(d) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional petroleum jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

(e) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.

(2) A person may not receive credit under this section for amounts claimed as credits under RCW 82.04.436 or chapter 82.16 RCW.

(3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.

(4) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) Documentation of the amount of alternative jet fuel purchased by the business in the prior calendar year;

(iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the definition in RCW 82.04.287(3) and the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under chapter 70A.535 RCW; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.

(5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.

(6) If a person fails to supply the information as required in subsection (4) of this section, the department must deny the application.

(7)(a) The credit under this section may be used against any tax due under this chapter.

(b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.

(c) No refunds may be granted for credits under this section.

(8) For the purposes of this section:

(a) "Alternative jet fuel" has the same meaning as in RCW 70A.535.010.

(b) "Carbon dioxide equivalent" has the same meaning as in RCW 70A.45.010.

(9) (a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1)(e) of this section was received by the department.

(b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the credit may be earned, as provided in (a) of this subsection.

(10) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534. [2023 c 232 s 11.]

**Tax preference performance statement—Effective date—2023 c 232 ss 9-12:** See notes following RCW 82.04.287.

**Intent—2023 c 232:** See note following RCW 70A.535.010.

**Automatic expiration date exemption—2023 c 232:** See note following RCW 82.04.287.

**RCW 82.04.440 Credit—Persons taxable on multiple activities.**

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), (4), (11), or (12) with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(b) or (12), including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (4), (11), or (12), including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state are allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount

of the credit may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260 (1), (2), (4), (11), and (12), and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260(12); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

(e) "Business," "manufacturer," "extractor," and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212 [82.04.217], notwithstanding the use of those terms in the context of describing taxes imposed by other states. [2011 c 2 s 205 (Initiative Measure No. 1107, approved November 2, 2010); 2010 1st sp.s. c 23 s 513. Prior: 2006 c 300 s 8; 2006 c 84 s 6; (2007 c 54 s 10 expired July 22, 2007); 2005 c 301 s 3; prior: 2004 c 174 s 5; 2004 c 24 s 7; 2003 2nd sp.s. c 1 s 6; 1998 c 312 s 9; 1994 c 124 s 4; 1987 2nd ex.s. c 3 s 2; 1985 c 190 s 1; 1981 c 172 s 5; 1967 ex.s. c 149 s 16; 1965 ex.s. c 173 s 12; 1961 c 15 s 82.04.440; prior: 1959 c 211 s 3; 1951 1st ex.s. c 9 s 1; 1950 ex.s. c 5 s 2; 1949 c 228 s 2-A; 1943 c 156 s 3; 1941 c 178 s 3; 1939 c 225 s 3; 1937 c 227 s 3; 1935 c 180 s 6; Rem. Supp. 1949 s 8370-6.]

**Findings—Construction—2011 c 2 (Initiative Measure No. 1107):**

See notes following RCW 82.08.0293.

**Effective date—2010 1st sp.s. c 23:** See note following RCW

82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW

82.04.220.

**Contingent expiration date—2007 c 54 s 10:** "Section 10 of this

act expires if the contingency in section 29 of this act occurs."

[2007 c 54 s 31.] The contingency in section 29, chapter 54, Laws of 2007 occurred on December 1, 2006.

**Effective dates—Contingent effective date—2006 c 300:** See note following RCW 82.04.261.

**Effective date—2006 c 84 ss 2-8:** See note following RCW 82.04.2404.

**Findings—Intent—2006 c 84:** See note following RCW 82.04.2404.

**Findings—Intent—Effective date—2005 c 301:** See notes following RCW 82.04.294.

**Effective date—2004 c 174:** See note following RCW 82.04.2908.

**Intent—Effective date—2004 c 24:** See notes following RCW 82.04.2909.

**Finding—2003 2nd sp.s. c 1:** See note following RCW 82.04.4461.

**Effective date—Savings—1998 c 312:** See notes following RCW 82.04.332.

**Retroactive application—1994 c 124:** "Except as otherwise provided in section 6 of this act, section 4 of this act applies retrospectively to all tax reporting periods on or after June 23, 1987." [1994 c 124 s 7.]

**Legislative findings and intent—1987 2nd ex.s. c 3:** "The legislature finds that the invalidation of the multiple activities exemption contained in RCW 82.04.440 by the United States Supreme Court now requires adjustments to the state's business and occupation tax to achieve constitutional equality between Washington taxpayers who have conducted and will continue to conduct business in interstate and intrastate commerce. It is the intent of chapter 3, Laws of 1987 2nd ex. sess. and sections 4 through 7 of this act to preserve the integrity of Washington's business and occupation tax system and impose only that financial burden upon the state necessary to establish parity in taxation between such taxpayers.

Thus, chapter 3, Laws of 1987 2nd ex. sess. and sections 4 through 7 of this act extends [extend] the system of credits originated in RCW 82.04.440 in 1985 to provide for equal treatment of taxpayers engaging in extracting, manufacturing or selling regardless of the location in which any of such activities occurs. It is further intended that RCW 82.04.440, as amended by section 2, chapter 3, Laws of 1987 2nd ex. sess. and sections 4 through 7 of this act, shall be construed and applied in a manner that will eliminate unconstitutional discrimination between taxpayers and ensure the preservation and collection of revenues from the conduct of multiple activities in which taxpayers in this state may engage." [1994 c 124 s 5; 1987 2nd ex.s. c 3 s 1.]

**Application to prior reporting periods—1987 2nd ex.s. c 3:** "If it is determined by a court of competent jurisdiction, in a judgment not subject to review, that relief is appropriate for any tax reporting periods before August 11, 1987, in respect to RCW 82.04.440 as it existed before August 11, 1987, it is the intent of the legislature that the credits provided in RCW 82.04.440 as amended by section 2,

chapter 3, Laws of 1987 2nd ex. sess. and section 4 of this act shall be applied to such reporting periods and that relief for such periods be limited to the granting of such credits." [1994 c 124 s 6; 1987 2nd ex.s. c 3 s 3.]

**Severability—1987 2nd ex.s. c 3:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 2nd ex.s. c 3 s 4.]

**Severability—1985 c 190:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 190 s 8.]

**Effective dates—1981 c 172:** See note following RCW 82.04.240.

**RCW 82.04.4451 Credit against tax due—Maximum credit—Table.**

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. Except for taxpayers that report at least 50 percent of their taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a taxpayer for a reporting period is \$55 multiplied by the number of months in the reporting period, as determined under RCW 82.32.045. For a taxpayer that reports at least 50 percent of its taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a reporting period is \$160 multiplied by the number of months in the reporting period, as determined under RCW 82.32.045.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

(4) The department may prepare a tax credit table consisting of tax ranges using increments of no more than five dollars and a corresponding tax credit to be applied to those tax ranges. The table shall be prepared in such a manner that no taxpayer will owe a greater amount of tax by using the table than would be owed by performing the calculation under subsections (1) through (3) of this section. A table prepared by the department under this subsection must be used by all taxpayers in taking the credit provided in this section. [2022 c 295 s 1; 2010 1st sp.s. c 23 s 1102; 1997 c 238 s 2; 1994 sp.s. c 2 s 1.]

**Tax preference performance statement exemption—Automatic expiration date exemption—2022 c 295 s 1:** "Section 1 of this act is exempt from RCW 82.32.805 and 82.32.808." [2022 c 295 s 4.]

**Application—2022 c 295:** "This act applies to reporting periods beginning on or after January 1, 2023." [2022 c 295 s 3.]

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.32.655.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Findings—Intent—1997 c 238:** "The legislature finds that many businesses have difficulty applying the small business credit under RCW 82.04.4451. Further, the legislature appreciates the valuable time and resources small businesses expend on calculating the amount of credit based upon a statutory formula. For the purpose of tax simplification, it is the intent of this act to direct the department of revenue to create a schedule, in standard increments, to replace required calculations for the small business credit. Each taxpayer can make reference to the taxpayer's tax range on the schedule and find the amount of the taxpayer's small business credit. Further, no taxpayer will owe a greater amount of tax nor will any taxpayer be responsible for a greater amount of taxes otherwise due." [1997 c 238 s 1.]

**Effective date—1994 sp.s. c 2:** "This act shall take effect on July 1, 1994." [1994 sp.s. c 2 s 5.]

**Application to reporting periods—1994 sp.s. c 2 s 1:** "Section 1 of this act applies to the entire period of reporting periods ending after July 1, 1994." [1994 sp.s. c 2 s 6.]

**RCW 82.04.44525 Credit—New employment for international service activities in eligible areas—Designation of census tracts for eligibility—Records—Tax due upon ineligibility—Interest assessment—Information from employment security department.** (1) Subject to the limits in this section, an eligible person is allowed a credit against the tax due under this chapter. The credit is based on qualified employment positions in eligible areas. The credit is available to persons who are engaged in international services as defined in this section. In order to receive the credit, the international service activities must take place at a business within the eligible area.

(2)(a) The credit shall equal three thousand dollars for each qualified employment position created after July 1, 1998, in an eligible area. A credit is earned for the calendar year the person is hired to fill the position, plus the four subsequent consecutive years, if the position is maintained for those four years.

(b) Credit may not be taken for hiring of persons into positions that exist on July 1, 1998. Credit is authorized for new employees hired for new positions created after July 1, 1998. New positions filled by existing employees are eligible for the credit under this section only if the position vacated by the existing employee is filled by a new hire.

(c) When a position is newly created, if it is filled before July 1st, this position is eligible for the full yearly credit. If it is filled after June 30th, this position is eligible for half of the credit.

(d) Credit may be accrued and carried over until it is used. No refunds may be granted for credits under this section.

(3) For the purposes of this section:

(a) "Eligible area" means: (i) A community empowerment zone under RCW 43.31C.020; or (ii) a contiguous group of census tracts that meets

the unemployment and poverty criteria of RCW 43.31C.030 and is designated under subsection (4) of this section;

(b) "Eligible person" means a person, as defined in RCW 82.04.030, who in an eligible area at a specific location is engaged in the business of providing international services;

(c) (i) "International services" means the provision of a service, as defined under (c) (iii) of this subsection, that is subject to tax under RCW 82.04.290 (2) or (3), and either:

(A) Is for a person domiciled outside the United States; or

(B) The service itself is for use primarily outside of the United States.

(ii) "International services" excludes any service taxable under RCW 82.04.290(1).

(iii) Eligible services are: Computer; data processing; information; legal; accounting and tax preparation; engineering; architectural; business consulting; business management; public relations and advertising; surveying; geological consulting; real estate appraisal; or financial services. For the purposes of this section these services mean the following:

(A) "Computer services" are services such as computer programming, custom software modification, customization of canned software, custom software installation, custom software maintenance, custom software repair, training in the use of software, computer systems design, and custom software update services;

(B) "Data processing services" are services such as word processing, data entry, data retrieval, data search, information compilation, payroll processing, business accounts processing, data production, and other computerized data and information storage or manipulation. "Data processing services" also includes the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or by the purchaser or other beneficiary of the service;

(C) "Information services" are services such as electronic data retrieval or research that entails furnishing financial or legal information, data or research, internet access as defined in RCW 82.04.297, general or specialized news, or current information;

(D) "Legal services" are services such as representation by an attorney, or other person when permitted, in an administrative or legal proceeding, legal drafting, paralegal services, legal research services, and court reporting services, arbitration, and mediation services;

(E) "Accounting and tax preparation services" are services such as accounting, auditing, actuarial, bookkeeping, or tax preparation services;

(F) "Engineering services" are services such as civil, electrical, mechanical, petroleum, marine, nuclear, and design engineering, machine designing, machine tool designing, and sewage disposal system designing services;

(G) "Architectural services" are services such as structural or landscape design or architecture, interior design, building design, building program management, and space planning services;

(H) "Business consulting services" are services such as primarily providing operating counsel, advice, or assistance to the management or owner of any business, private, nonprofit, or public organization, including but not limited to those in the following areas: Administrative management consulting; general management consulting; human resource consulting or training; management engineering

consulting; management information systems consulting; manufacturing management consulting; marketing consulting; operations research consulting; personnel management consulting; physical distribution consulting; site location consulting; economic consulting; motel, hotel, and resort consulting; restaurant consulting; government affairs consulting; and lobbying;

(I) "Business management services" are services such as administrative management, business management, and office management. "Business management services" does not include property management or property leasing, motel, hotel, and resort management, or automobile parking management;

(J) "Public relations and advertising services" are services such as layout, art direction, graphic design, copy writing, mechanical preparation, opinion research, marketing research, marketing, or production supervision;

(K) "Surveying services" are services such as land surveying;

(L) "Geological consulting services" are services rendered for the oil, gas, and mining industry and other earth resource industries, and other services such as soil testing;

(M) "Real estate appraisal services" are services such as market appraisal and other real estate valuation; and

(N) "Financial services" are services such as banking, loan, security, investment management, investment advisory, mortgage servicing, contract collection, and finance leasing services, engaged in by financial businesses, or businesses similar to or in competition with financial businesses; and

(d) "Qualified employment position" means a permanent full-time position to provide international services. If an employee is either voluntarily or involuntarily separated from employment, the employment position is considered filled on a full-time basis if the employer is either training or actively recruiting a replacement employee.

(4) By ordinance, the legislative authority of a city, or legislative authorities of contiguous cities by ordinance of each city's legislative authority, with population greater than eighty thousand, located in a county containing no community empowerment zones as designated under RCW 43.31C.020, may designate a contiguous group of census tracts within the city or cities as an eligible area under this section. Each of the census tracts must meet the unemployment and poverty criteria of RCW 43.31C.030. Upon making the designation, the city or cities shall transmit to the department of revenue a certification letter and a map, each explicitly describing the boundaries of the census tract. This designation must be made by December 31, 1998.

(5) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section. This information includes:

(a) Employment records for the previous six years;

(b) Information relating to description of international service activity engaged in at the eligible location by the person; and

(c) Information relating to customers of international service activity engaged in at that location by the person.

(6) If at any time the department finds that a person is not eligible for tax credit under this section, the amount of taxes for which a credit has been used shall be immediately due. The department shall assess interest, but not penalties, on the credited taxes for which the person is not eligible. The interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW,

shall be assessed retroactively to the date the tax credit was taken, and shall accrue until the taxes for which a credit has been used are repaid.

(7) The employment security department shall provide to the department of revenue such information needed by the department of revenue to verify eligibility under this section. [2009 c 535 s 1104; 2008 c 81 s 9; 1998 c 313 s 2.]

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**Intent—Findings—1998 c 313:** "It is the intent of the legislature to attract and retain businesses that provide professional services and insurance services to international customers. To that end, the legislature finds that an incentive measured by a business's growth in jobs is a meaningful method of attracting and retaining such businesses. Therefore, the incentive in this act is specifically targeted at "net new jobs." In addition, to further the impact and benefit of this program, this incentive is limited to those urban areas of the state, both in eastern Washington and western Washington, that are characterized by unemployment and poverty. The legislature finds that providing this targeted incentive will be of benefit to the state as a whole." [1998 c 313 s 1.]

**Effective date—1998 c 313:** "This act takes effect July 1, 1998." [1998 c 313 s 4.]

**RCW 82.04.4461 Credit—Preproduction development expenditures. (Expires July 1, 2040.)** (1)(a)(i) In computing the tax imposed under this chapter, a credit is allowed for each person for qualified aerospace product development. For a person who is a manufacturer or processor for hire of commercial airplanes or components of such airplanes, credit may be earned for expenditures occurring after December 1, 2003. For all other persons, credit may be earned only for expenditures occurring after June 30, 2008.

(ii) For purposes of this subsection, "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(b) Before July 1, 2005, any credits earned under this section must be accrued and carried forward and may not be used until July 1, 2005. These carryover credits may be used at any time thereafter, and may be carried over until used. Refunds may not be granted in the place of a credit.

(2) The credit is equal to the amount of qualified aerospace product development expenditures of a person, multiplied by the rate of 1.5 percent.

(3) Except as provided in subsection (1)(b) of this section the credit must be claimed against taxes due for the same calendar year in which the qualified aerospace product development expenditures are incurred. Credit earned on or after July 1, 2005, may not be carried over. The credit for each calendar year may not exceed the amount of tax otherwise due under this chapter for the calendar year. Refunds may not be granted in the place of a credit.

(4) Any person claiming the credit must file a form prescribed by the department that must include the amount of the credit claimed, an estimate of the anticipated aerospace product development expenditures during the calendar year for which the credit is claimed, an estimate of the taxable amount during the calendar year for which the credit is claimed, and such additional information as the department may prescribe.

(5) The definitions in this subsection apply throughout this section.

(a) "Aerospace product" has the meaning given in RCW 82.08.975.

(b) "Aerospace product development" means research, design, and engineering activities performed in relation to the development of an aerospace product or of a product line, model, or model derivative of an aerospace product, including prototype development, testing, and certification. The term includes the discovery of technological information, the translating of technological information into new or improved products, processes, techniques, formulas, or inventions, and the adaptation of existing products and models into new products or new models, or derivatives of products or models. The term does not include manufacturing activities or other production-oriented activities, however the term does include tool design and engineering design for the manufacturing process. The term does not include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(c) "Qualified aerospace product development" means aerospace product development performed within this state.

(d) "Qualified aerospace product development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined by the department, benefits, supplies, and computer expenses, directly incurred in qualified aerospace product development by a person claiming the credit provided in this section. The term does not include amounts paid to a person or to the state and any of its departments and institutions, other than a public educational or research institution to conduct qualified aerospace product development. The term does not include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(e) "Taxable amount" means the taxable amount subject to the tax imposed in this chapter required to be reported on the person's tax returns during the year in which the credit is claimed, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(6) In addition to all other requirements under this title, a person claiming the credit under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(7) Credit may not be claimed for expenditures for which a credit is claimed under \*RCW 82.04.4452.

(8) This section expires July 1, 2040. [2017 c 135 s 15; 2013 3rd sp.s. c 2 s 9; 2010 c 114 s 115; 2008 c 81 s 7; 2007 c 54 s 11; 2003 2nd sp.s. c 1 s 7.]

**\*Reviser's note:** RCW 82.04.4452 expired January 1, 2015.

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Contingent effective date—2013 3rd sp.s. c 2:** See RCW 82.32.850.

**Findings—Intent—2013 3rd sp.s. c 2:** See note following RCW 82.32.850.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Finding—2003 2nd sp.s. c 1:** "The legislature finds that the people of the state have benefited from the presence of the aerospace industry in Washington state. The aerospace industry provides good wages and benefits for the thousands of engineers, mechanics, and support staff working directly in the industry throughout the state. The suppliers and vendors that support the aerospace industry in turn provide a range of jobs. The legislature declares that it is in the public interest to encourage the continued presence of this industry through the provision of tax incentives. The comprehensive tax incentives in this act address the cost of doing business in Washington state compared to locations in other states." [2003 2nd sp.s. c 1 s 1.]

**RCW 82.04.4463 Credit—Property and leasehold taxes paid on property used for manufacture of commercial airplanes. (Expires July 1, 2040.)** (1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a) (i) (A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a) (i) (A) and (B) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(11)(b), or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not

within the scope of (a)(ii)(A) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(11)(b), or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(11)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(11)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

(A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(11)(a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

(B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

(C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(11) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

(D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

(E) As used in (b)(ii)(C) of this subsection (2), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person claiming the credit under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) This section expires July 1, 2040. [2017 c 135 s 16; 2013 3rd sp.s. c 2 s 10; 2010 1st sp.s. c 23 s 515; (2010 1st sp.s. c 23 s 514 expired June 10, 2010); 2010 c 114 s 116; 2008 c 81 s 8; 2006 c 177 s 10; 2005 c 514 s 501; 2003 2nd sp.s. c 1 s 15.]

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Contingent effective date—2013 3rd sp.s. c 2:** See RCW 82.32.850.

**Findings—Intent—2013 3rd sp.s. c 2:** See note following RCW 82.32.850.

**Expiration date—2010 1st sp.s. c 23 ss 503, 505, and 514:** See note following RCW 82.04.4266.

**Effective date—2010 1st sp.s. c 23 ss 504, 506, and 515:** See note following RCW 82.04.4266.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**Effective date—2006 c 177 ss 10 and 11:** "Sections 10 and 11 of this act take effect January 1, 2007." [2006 c 177 s 13.]

**Application—2006 c 177 s 10:** "Section 10 of this act applies with respect to leasehold excise taxes paid on or after January 1, 2007." [2006 c 177 s 11.]

**Effective date—2005 c 514 ss 501 and 1002:** "Sections 501 and 1002 of this act take effect January 1, 2006." [2005 c 514 s 1305.]

**Part headings not law—Severability—2005 c 514:** See notes following RCW 82.12.808.

**Finding—2003 2nd sp.s. c 1:** See note following RCW 82.04.4461.

**RCW 82.04.447 Credit—Natural or manufactured gas purchased by direct service industrial customers—Reports.** (1) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Direct service industrial customer" means a person who is an industrial customer that contracts for the purchase of power from the Bonneville Power Administration for direct consumption as of May 8, 2001. "Direct service industrial customer" includes a person who is a subsidiary that is more than fifty percent owned by a direct service

industrial customer and who receives power from the Bonneville Power Administration pursuant to the parent's contract for power.

(b) "Facility" means a gas turbine electrical generation facility that does not exist on May 8, 2001, and is owned by a direct service industrial customer for the purpose of producing electricity to be consumed by the direct service industrial customer.

(c) "Average annual employment" means the total employment in this state for a calendar year at the direct service industrial customer's location where electricity from the facility will be consumed.

(2) Effective July 1, 2001, a credit is allowed against the tax due under this chapter to a direct service industrial customer who purchases natural or manufactured gas from a gas distribution business subject to the public utility tax under chapter 82.16 RCW. The credit is equal to the value of natural or manufactured gas purchased from a gas distribution business and used to generate electricity at the facility multiplied by the rate in effect for the public utility tax on gas distribution businesses under RCW 82.16.020. This credit may be used each reporting period for sixty months following the first month natural or manufactured gas was purchased from a gas distribution business by a direct service industrial customer who constructs a facility.

(3) Application for credit shall be made by the direct service industrial consumer before the first purchase of natural or manufactured gas. The application shall be in a form and manner prescribed by the department and shall include but is not limited to information regarding the location of the facility, the projected date of first purchase of natural or manufactured gas to generate electricity at the facility, the date construction is projected to begin or did begin, the applicant's average annual employment in the state for the six calendar years immediately preceding the year in which the application is made, and affirm the applicant's status as a direct service industrial customer. The department shall rule on the application within thirty days of receipt.

(4) Credit under this section is limited to the amount of tax imposed under this chapter. Refunds shall not be given in place of credits and credits may not be carried over to subsequent calendar years.

(5) All or part of the credit shall be disallowed and must be paid if the average of the direct service industrial customer's average annual employment for the five calendar years subsequent to the calendar year containing the first month of purchase of natural or manufactured gas to generate electricity at a facility is less than the six-year average annual employment stated on the application for credit under this section. The direct service industrial customer will certify to the department by June 1st of the sixth calendar year following the calendar year in which the month of first purchase of gas occurs the average annual employment for each of the five prior calendar years. All or part of the credit that shall be disallowed and must be paid is commensurate with the decrease in the five-year average of average annual employment as follows:

<u>Decrease in Average Annual Employment Over Five-Year Period</u>	<u>% of Credit to be Paid</u>
Less than 10%	10%
10% or more but less than 25%	25%

<u>Decrease in Average Annual Employment Over Five-Year Period</u>	<u>% of Credit to be Paid</u>
25% or more but less than 50%	50%
50% or more but less than 75%	75%
75% or more	100%

(6) (a) The direct service industrial customer shall begin paying the credit that is disallowed and is to be paid in the sixth calendar year following the calendar year in which the month following the month of first purchase of natural or manufactured gas to generate electricity at the facility occurs. The first payment will be due on or before December 31st with subsequent annual payments due on or before December 31st of the following four years according to the following schedule:

<u>Payment Year</u>	<u>% of Credit to be Paid</u>
1	10%
2	15%
3	20%
4	25%
5	30%

(b) The department may authorize an accelerated payment schedule upon request of the taxpayer.

(c) Interest shall not be charged on the credit that is disallowed for the sixty-month period the credit may be taken, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed. The debt for credit that is disallowed and must be paid will not be extinguished by insolvency or other failure of the direct service industrial customer. Transfer of ownership of the facility does not affect eligibility for this credit. However, the credit is available to the successor only if the eligibility conditions of this section are met.

(7) The employment security department shall make, and certify to the department of revenue, all determinations of employment under this section as requested by the department.

(8) A person claiming this credit shall supply to the department quarterly reports containing information necessary to document the total volume of natural or manufactured gas purchased in the quarter, the value of that total volume, and the percentage of the total volume used to generate electricity at the facility. [2001 c 214 s 9.]

**Severability—Effective date—2001 c 214:** See notes following RCW 80.50.010.

**Findings—2001 c 214:** See note following RCW 39.35.010.

**RCW 82.04.448 Credit—Manufacturing semiconductor materials. (Contingent effective date; contingent expiration date.)** (1) Subject to the limits and provisions of this section, a credit is authorized against the tax otherwise due under RCW 82.04.241 for persons engaged in the business of manufacturing semiconductor materials. For the

purposes of this section "semiconductor materials" has the same meaning as provided in RCW 82.04.241.

(2) (a) The credit under this section equals \$3,000 for each employment position used in manufacturing production that takes place in a new building exempt from sales and use tax under RCW 82.08.965 and 82.12.965. A credit is earned for the calendar year a person fills a position. Additionally a credit is earned for each year the position is maintained over the subsequent consecutive years, up to eight years. Those positions that are not filled for the entire year are eligible for 50 percent of the credit if filled less than six months, and the entire credit if filled more than six months.

(b) To qualify for the credit, the manufacturing activity of the person must be conducted at a new building that qualifies for the exemption from sales and use tax under RCW 82.08.965 and 82.12.965.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation, during which time employment at the new building at the same site is increased, the person is eligible for credit for employment at the existing building and new building, with the limitation that the combined eligible employment not exceed full employment at the new building. "Full employment" has the same meaning as in RCW 82.08.965. The credit may not be earned until the commencement of commercial production, as that term is used in RCW 82.08.965.

(3) No application is necessary for the tax credit. The person is subject to all of the requirements of chapter 82.32 RCW. In no case may a credit earned during one calendar year be carried over to be credited against taxes incurred in a subsequent calendar year. No refunds may be granted for credits under this section.

(4) If at any time the department finds that a person is not eligible for tax credit under this section, the amount of taxes for which a credit has been claimed is immediately due. The department must assess interest, but not penalties, on the taxes for which the person is not eligible. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, is retroactive to the date the tax credit was taken, and accrues until the taxes for which a credit has been used are repaid.

(5) A person claiming the credit under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) Credits may be claimed after the expiration date of this section, for those buildings at which commercial production began before the expiration date of this section, subject to all of the eligibility criteria and limitations of this section.

(7) Any person who has claimed the credit under this section must reimburse the department for 50 percent of the amount of the tax preference under this section if the number of persons employed by the person claiming the tax preference is less than 90 percent of the person's three-year employment average for the three years immediately preceding the year in which the credit is claimed.

(8) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(9) This section expires January 1, 2034, unless the contingency in RCW 82.32.790(2) occurs. [2024 c 261 s 4. Prior: 2017 3rd sp.s. c 37 s 516; (2017 3rd sp.s. c 37 s 515 expired January 1, 2018); 2017 c 135 s 17; 2010 c 114 s 117; 2003 c 149 s 9.]

**Tax preference performance statement exemption—Effective date—2024 c 261 ss 2-9:** See notes following RCW 82.04.241.

**Effective date—2017 3rd sp.s. c 37 ss 101-104, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, 707, and 801-803:** See note following RCW 82.04.2404.

**Expiration date—2017 3rd sp.s. c 37 ss 502, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, and 525:** See note following RCW 82.04.2404.

**\*Contingent effective date—2017 c 135; 2010 c 114:** See RCW 82.32.790.

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Finding—Intent—2010 c 114:** See note following RCW 82.32.534.

**Findings—Intent—2003 c 149:** See note following RCW 82.04.426.

**RCW 82.04.4481 Credit—Property taxes paid by aluminum smelter.**

(1) In computing the tax imposed under this chapter, a credit is allowed for all property taxes paid during the calendar year on property owned by a direct service industrial customer and reasonably necessary for the purposes of an aluminum smelter.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) Credits may not be claimed under this section for property taxes levied for collection in 2027 and thereafter.

(4) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534. [2017 c 135 s 18; 2015 3rd sp.s. c 6 s 503; 2011 c 174 s 302. Prior: 2010 1st sp.s. c 2 s 2; 2010 c 114 s 118; 2006 c 182 s 2; 2004 c 24 s 8.]

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Effective dates—2015 3rd sp.s. c 6:** See note following RCW 82.04.4266.

**Findings—Tax preference performance statement—2015 3rd sp.s. c 6 ss 502-506:** See note following RCW 82.04.2909.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**Intent—Effective date—2004 c 24:** See notes following RCW 82.04.2909.

**RCW 82.04.4482 Credit—Sales of electricity or gas to an aluminum smelter.** (1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to an aluminum smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the aluminum smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to an aluminum smelter multiplied by the corresponding rate in effect at the time of the sale under this chapter.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process. [2004 c 24 s 9.]

**Intent—Effective date—2004 c 24:** See notes following RCW 82.04.2909.

**RCW 82.04.4486 Credit—Syrup taxes paid by buyer.** (1) In computing the tax imposed under this chapter, a credit is allowed to a buyer of syrup to be used by the buyer in making carbonated beverages that are sold by the buyer if the tax imposed by RCW 82.64.020 has been paid in respect to the syrup. The amount of the credit shall be equal to twenty-five percent from July 1, 2006, through June 30, 2007, fifty percent from July 1, 2007, through June 30, 2008, seventy-five percent from July 1, 2008, through June 30, 2009, and one hundred percent after June 30, 2009, of the taxes imposed under RCW 82.64.020 in respect to the syrup purchased by the buyer.

(2) Credit under this section shall be earned, and claimed against taxes due under this chapter, for the tax reporting period in which the syrup was purchased by the person claiming credit under this section. The credit shall not exceed the tax otherwise due under this chapter for the tax reporting period. Unused credit may be carried over and used in subsequent tax reporting periods, except that no credit may be claimed more than twelve months from the end of the tax reporting period in which the credit was earned. No refunds shall be granted for credits under this section.

(3) No credit is available under this section for taxes paid under RCW 82.64.020 before July 1, 2006.

(4) For the purposes of this section, "carbonated beverage," "previously taxed syrup," and "syrup" have the same meanings as provided in RCW 82.64.010. [2006 c 245 s 1.]

**Effective date—2006 c 245:** "This act takes effect July 1, 2006." [2006 c 245 s 2.]

**RCW 82.04.4488 Credit—Conversion to worker-owned cooperative, employee ownership trust, or employee stock ownership plan. (Expires July 1, 2030.)** (1) Beginning July 1, 2024, in computing the tax imposed under this chapter, a credit is allowed for costs related to converting a qualifying business to a worker-owned cooperative,

employee ownership trust, or an employee stock ownership plan, as provided in this section.

(2) The credit is equal to:

(a) Up to 50 percent of the conversion costs, not to exceed \$25,000, incurred by a qualified business for converting the qualified business to a worker-owned cooperative or an employee ownership trust; or

(b) Up to 50 percent of the conversion costs, not to exceed \$100,000, incurred by a qualified business for converting the qualified business to an employee stock ownership plan.

(3) (a) Credit under this section is earned, and claimed against taxes due under this chapter, for the tax reporting period in which the conversion to a worker-owned cooperative, employee ownership trust, or an employee stock ownership plan is complete, or subsequent tax reporting periods as provided in (c) of this subsection.

(b) The credit must not exceed the tax otherwise due under this chapter for the tax reporting period.

(c) Unused credit may be carried over and used in subsequent tax reporting periods, except that no credit may be claimed more than 12 months from the end of the tax reporting period in which the credit was earned.

(d) No refunds may be granted for credits under this section.

(4) (a) The total amount of credits authorized under this section may not exceed an annual statewide limit of \$2,000,000.

(b) Credits must be authorized on a first-in-time basis.

(c) No credit may be earned, during any calendar year, on or after the last day of the calendar month immediately following the month the department has determined that \$2,000,000 in credit has been earned.

(5) (a) The department may require persons claiming a credit under this section to provide appropriate documentation, in a manner as determined by the department, for the purposes of determining eligibility under this section.

(b) Every person claiming a credit under this section must preserve, for a period of five years, any documentation to substantiate the amount of credit claimed.

(6) For the purposes of this section:

(a) "Conversion costs" means professional services, including accounting, legal, and business advisory services, as detailed in the guidelines issued by the department, for: (i) A feasibility study or other preliminary assessments regarding a transition of a business to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust; or (ii) the transition of a business to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust.

(b) "Employee ownership trust" means an indirect form of employee ownership in which a trust holds a controlling stake in a qualified business and benefits all employees on an equal basis.

(c) "Employee stock ownership plan" has the same meaning as set forth in 26 U.S.C. Sec. 4975(e)(7), as of July 1, 2024.

(d) "Qualified business" means a person subject to tax under this chapter, including but not limited to a C corporation, S corporation, limited liability company, partnership, limited liability partnership, sole proprietorship, or other similar pass-through entity, that is not owned in whole or in part by an employee ownership trust, that does not have an employee stock ownership plan, or that is not, in whole or

in part, a worker-owned cooperative, and that is approved by the department for the tax credit in this section.

(e) "Worker-owned cooperative" has the same meaning as set forth in 26 U.S.C. Sec. 1042(c)(2), as of July 1, 2024, or such subsequent dates as may be provided by rule by the department, consistent with the purposes of this section.

(7) Credits allowed under this section can be earned for tax reporting periods starting on or before June 30, 2029. No credits can be claimed on returns filed for tax periods starting on or after July 1, 2030.

(8) This section expires July 1, 2030. [2023 c 392 s 5.]

**Tax preference performance statement—2023 c 392 s 5:** "(1) This section is the tax preference performance statement for the tax preference contained in section 5, chapter 392, Laws of 2023. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to encourage business owners to create an employee stock ownership plan or employee ownership trust, or to convert to a worker-owned cooperative, that allows the company to share ownership with their employees without requiring employees to invest their own money.

(4) If a review finds that the number of businesses in this state offering employee stock ownership plans, employee ownership trusts, or ones that have converted to a worker-owned cooperative, has increased because of the tax credit under this act, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may access and use any relevant data collected by the state." [2023 c 392 s 4.]

**Effective date—2023 c 392 ss 4 and 5:** "Sections 4 and 5 of this act take effect July 1, 2024." [2023 c 392 s 7.]

**Findings—Intent—Short title—2023 c 392:** See notes following RCW 43.330.590.

**RCW 82.04.4489 Credit—Motion picture competitiveness program.**

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a person to a Washington motion picture competitiveness program.

(2) The person must make the contribution before claiming a credit authorized under this section. Credits earned under this section may be claimed against taxes due for the calendar year in which the contribution is made. The amount of credit claimed for a reporting period may not exceed the tax otherwise due under this chapter for that reporting period. No person may claim more than \$1,000,000 of credit in any calendar year, including credit carried

over from a previous calendar year. No refunds may be granted for any unused credits.

(3) The maximum credit that may be earned for each calendar year under this section for a person is limited to the lesser of \$1,000,000 or an amount equal to 100 percent of the contributions made by the person to a program during the calendar year.

(4) Except as provided under subsection (5) of this section, a tax credit claimed under this section may not be carried over to another year.

(5) Any amount of tax credit otherwise allowable under this section not claimed by the person in any calendar year may be carried over and claimed against the person's tax liability for the next succeeding calendar year. Any credit remaining unused in the next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year; and any credit not used in that second succeeding calendar year may be carried over and claimed against the person's tax liability for the third succeeding calendar year, but may not be carried over for any calendar year thereafter.

(6) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during any calendar year to exceed \$15,000,000. If this limitation is reached, the department must notify all Washington motion picture competitiveness programs that the annual statewide limit has been met. In addition, the department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide that the tax be paid within 30 days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(7) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(8) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(9) A Washington motion picture competitiveness program must provide to the department, upon request, such information needed to verify eligibility for credit under this section, including information regarding contributions received by the program.

(10) The department may not allow any credit under this section before July 1, 2006.

(11) For the purposes of this section, "Washington motion picture competitiveness program" or "program" means an organization established pursuant to chapter 43.365 RCW.

(12) Persons claiming a credit against the tax imposed under this chapter for contributions made to a Washington motion picture competitiveness program are exempt from the annual reporting requirements in RCW 82.32.534 and 43.365.040.

(13) No credit may be earned for contributions made on or after July 1, 2030. [2023 c 374 s 9; 2022 c 270 s 5; 2017 3rd sp.s. c 37 s 1102; 2012 c 189 s 4; 2008 c 85 s 3; 2006 c 247 s 5.]

**RCW 82.04.449 Credit—Washington customized employment training program—Report to the legislature.** (1) In computing the tax imposed under this chapter, a credit is allowed for participants in the Washington customized employment training program created in RCW 28B.67.020. The credit allowed under this section is equal to 50 percent of the value of a participant's payments to the employment training finance account created in RCW 28B.67.030. If a participant in the program does not meet the requirements of RCW 28B.67.020(2)(b)(ii), the participant must remit to the department the value of any credits taken plus interest. The credit earned by a participant in one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year. No credit may be allowed for repayment of training allowances received from the Washington customized employment training program on or after July 1, 2026.

(2) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) By December 31, 2024, the college board, as defined in RCW 28B.50.030, shall submit to the higher education committees of the legislature a report on:

- (a) Industries supported by the program;
- (b) The geographical location of companies utilizing the program;
- (c) The number of employees trained;
- (d) The types of occupations included in the training;
- (e) The wages of employees trained prior to program entrance and the wage growth one year after training;
- (f) Retention of employees for a period of one year after training; and
- (g) Credential attainment of employees upon completion of the training, if applicable. [2021 c 116 s 3; 2017 c 135 s 20; 2012 c 46 s 3; 2010 c 114 s 121; 2009 c 296 s 3; 2006 c 112 s 5.]

**Finding—2021 c 116:** "The legislature finds that due to the COVID-19 pandemic, there is new urgency for employer-affordable programs supporting worker training. It is the objective of the legislature to aid in the recruiting, retaining, and expanding of existing small businesses in Washington by extending the expiration of the customized employment training program tax credit to July 1, 2026." [2021 c 116 s 1.]

**Tax preference performance statement—2021 c 116:** "(1) This section is the tax preference performance statement for the tax preference contained in section 3, chapter 116, Laws of 2021. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to accomplish a general purpose, to provide customized

workforce development and skill development training that enhance worker skill sets.

(3) It is the legislature's specific public policy objective to provide customized training assistance that retains and expands existing businesses in Washington.

(4) If a review finds that 75 percent of participating businesses complete the training and repay the customized employment training program loan, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state." [2021 c 116 s 2.]

**Effective date—2021 c 116:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021." [2021 c 116 s 4.]

**Effective date—2017 c 135:** See note following RCW 82.32.534.

**Application—Finding—Intent—2010 c 114:** See notes following RCW 82.32.534.

**RCW 82.04.4496 Credit—Clean alternative fuel commercial vehicles.** (1) (a) (i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	75% of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	75% of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	75% of incremental cost	\$100,000	\$2,000,000

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to 50 percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of \$2,000,000.

(b) On September 1st of each year, any unused credits from any category identified in (a) of this subsection must be made available to applicants applying for credits under any other category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.16.0496 is subject to a maximum annual

credit amount of \$6,000,000, and a maximum total credit amount of \$32,500,000 since the credit became available on July 15, 2015.

(c) The credit provided in (a)(i) of this subsection is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in (a)(i) of this subsection multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per category in subsection (1)(a) of this section, a credit against the tax imposed in this chapter for the lesser of \$25,000 or 50 percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1)(a)(i) of this section may not exceed the lesser of \$250,000 or 25 vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.16 RCW.

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.16.0496, during any calendar year to exceed \$6,000,000. The department must provide notification on its website monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.16.0496 to exceed \$32,500,000. The department must provide notification on its website monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;

(iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;

(vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;

(vii) The gross weight of each vehicle for vehicle credits;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within 15 days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;

(ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit;

(iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within 30 days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

(i) A copy of the final invoice for the vehicle or infrastructure-related items;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of each vehicle;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) Attestations signed by both the seller and purchaser of each vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its website monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit and total limit are reached;

(b) Within 15 days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within 15 days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within 15 days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel;

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

(13) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(14) The department must conduct outreach to interested parties to obtain input on how best to streamline the application process required for the credit made available in this section and RCW 82.16.0496 to further adoption of alternative fuel technologies in commercial vehicle fleets, and must incorporate the findings resulting from this outreach effort into the rules and practices it adopts to implement and administer this section and RCW 82.16.0496 to the extent permitted under law.

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

(a) "Alternative fuel vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a clean alternative fuel vehicle.

(b) "Auto transportation company" means any corporation or person owning, controlling, operating, or managing any motor propelled vehicle, used in the business of transporting persons for compensation over public highways within the state of Washington, between fixed points or over a regular route. For the purposes of this section, "auto transportation company" also includes the following categories of providers irrespective of whether they provide service between fixed points or over a regular route: "Private, nonprofit transportation provider" as defined in RCW 81.66.010, "charter party

carrier" as defined in RCW 81.70.020, and paratransit service providers who primarily provide special needs transportation to individuals with disabilities and the elderly.

(c) "Clean alternative fuel" means electricity, dimethyl ether, hydrogen, methane, natural gas, liquefied natural gas, compressed natural gas, or propane.

(d) "Commercial vehicle" means any commercial vehicle that is purchased by a private business and that is used exclusively in the provision of commercial services or the transportation of commodities, merchandise, produce, refuse, freight, animals, or passengers, and that is displaying a Washington state license plate. All commercial vehicles that provide transportation to passengers must be operated by an auto transportation company.

(e) "Gross capitalized cost" means the agreed upon value of the commercial vehicle and including any other items a person pays over the lease term that are included in such cost.

(f) "Lease reduction factor" means the vehicle gross capitalized cost less the residual value, divided by the gross capitalized cost.

(g) "Qualifying used commercial vehicle" means vehicles that:

(i) Have an odometer reading of less than 450,000 miles;

(ii) Are less than 10 years past their original date of manufacture;

(iii) Were modified after the initial purchase with a United States environmental protection agency certified conversion that would allow the propulsion units to be principally powered by a clean alternative fuel; and

(iv) Are being sold for the first time after modification.

(h) "Residual value" means the lease-end value of the vehicle as determined by the lessor, at the end of the lease term included in the lease contract.

(16) Credits may be earned under this section from January 1, 2016, until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, until the maximum total credit amount in subsection (1)(b) of this section is reached. [2022 c 182 s 307; 2019 c 287 s 8; 2017 c 116 s 1. Prior: 2016 c 29 s 1; 2015 3rd sp.s. c 44 s 411.]

**Intent—Effective date—2022 c 182:** See notes following RCW 70A.65.240.

**Effective date—2019 c 287 ss 8 and 13:** "Sections 8 and 13 of this act take effect January 1, 2020." [2019 c 287 s 25.]

**Tax preference performance statement—2019 c 287 ss 8-14:** "This section is the tax preference performance statement for the tax preferences contained in sections 8 through 14, chapter 287, Laws of 2019. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It

is the legislature's intent to establish and extend tax incentive programs for alternative fuel vehicles and related infrastructure by: (a) Reinstating the sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles; (b) extending the business and occupation and public utility tax credit for clean alternative fuel commercial vehicles and expanding it to include clean alternative fuel infrastructure; (c) extending the sales and use tax exemption for electric vehicle batteries, fuel cells, and infrastructure and expanding it to include the electric battery and fuel cell components of electric buses and zero emissions buses; and (d) extending the leasehold excise tax exemption to tenants of public lands for battery and fuel cell electric vehicle infrastructure.

(3) To measure the effectiveness of the tax preferences in sections 8 through 14, chapter 287, Laws of 2019 in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary." [2019 c 287 s 7.]

**Findings—Intent—2019 c 287:** See note following RCW 28B.30.903.

**Effective date—2017 c 116:** "This act takes effect January 1, 2018." [2017 c 116 s 4.]

**Effective date—2015 3rd sp.s. c 44:** See note following RCW 46.68.395.

**Short title—Findings—Tax preference performance statement—2015 3rd sp.s. c 44 ss 411 and 412:** "(1) This section and sections 411 and 412 of this act may be known and cited as the clean fuel vehicle incentives act.

(2) The legislature finds that cleaner fuels reduce greenhouse gas emissions in the transportation sector and lead to a more sustainable environment. The legislature further finds that alternative fuel vehicles cost more than comparable models of conventional fuel vehicles, particularly in the commercial market. The legislature further finds the higher cost of alternative fuel vehicles incentivize companies to purchase comparable models of conventional fuel vehicles. The legislature further finds that other states provide various tax credits and exemptions. The legislature further finds incentivizing businesses to purchase cleaner, alternative fuel vehicles is a collaborative step toward meeting the state's climate and environmental goals.

(3) (a) This subsection is the tax preference performance statement for the clean alternative fuel vehicle tax credits provided in section 1, chapter 116, Laws of 2017, sections 1 and 2, chapter 29, Laws of 2016, and sections 411 and 412, chapter 44, Laws of 2015 3rd sp. sess. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to

create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers.

(c) It is the legislature's specific public policy objective to provide a credit against business and occupation and public utility taxes to increase sales of commercial vehicles that use clean alternative fuel to ten percent of commercial vehicle sales by 2021.

(d) To measure the effectiveness of the credit provided in section 1, chapter 116, Laws of 2017, sections 1 and 2, chapter 29, Laws of 2016, and sections 411 and 412, chapter 44, Laws of 2015 3rd sp. sess. in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee must, at minimum, evaluate the changes in the number of commercial vehicles that are powered by clean alternative fuel that are registered in Washington state.

(e)(i) The department of licensing must provide data needed for the joint legislative audit and review committee's analysis in (d) of this subsection.

(ii) In addition to the data source described under (e)(i) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (d) of this subsection." [2017 c 116 s 3; 2016 c 29 s 3; 2015 3rd sp.s. c 44 s 410.]

**RCW 82.04.4497 Credit—Sale or exchange of long-term capital assets. (Contingent expiration date.)** (1) To avoid taxing the same sale or exchange under both the business and occupation tax and capital gains tax, a credit is allowed against taxes due under this chapter on a sale or exchange that is also subject to the tax imposed under RCW 82.87.040. The credit is equal to the amount of tax imposed under this chapter on such sale or exchange.

(2) The credit may be used against any tax due under this chapter.

(3) The credit under this section is earned in regards to a sale or exchange, and may be claimed against taxes due under this chapter, for the tax reporting period in which the sale or exchange occurred. The credit claimed for a tax reporting period may not exceed the tax otherwise due under this chapter for that tax reporting period. Unused credit may not be carried forward or backward to another tax reporting period. No refunds may be granted for unused credit under this section.

(4) The department must apply the credit first to taxes deposited into the general fund. If any remaining credit reduces the amount of taxes deposited into the workforce education investment account established in RCW 43.79.195, the department must notify the state treasurer of such amounts monthly, and the state treasurer must transfer those amounts from the general fund to the workforce education investment account. [2021 c 196 s 16.]

**Contingency—2021 c 196 ss 5 and 16:** See note following RCW 82.87.040.

**Automatic expiration date and tax preference performance statement exemption—2021 c 196:** See note following RCW 82.87.010.

**RCW 82.04.4499 Credit—Equitable access to credit program.**

**(Expires July 1, 2027.)** (1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a person to the equitable access to credit program created in chapter 43.390 RCW.

(2) (a) The person must make the contribution before claiming a credit authorized under this section. The credit may be used against any tax due under this chapter. The amount of the credit claimed for a reporting period may not exceed the tax otherwise due under this chapter for that reporting period. No person may claim more than \$1,000,000 of credit in any calendar year, including credit carried over from a previous calendar year. No refunds may be granted for any unused credits.

(b) Any amount of tax credit otherwise allowable under this section not claimed by the person in any calendar year may be carried forward and claimed against a person's tax liability for the next succeeding calendar year; and any credit not used in that next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year, but may not be carried over for any calendar year thereafter.

(3) Credits are available on a first-in-time basis. The department must disallow any credits, or portions thereof, that would cause the total amount of credits claimed under this section for any calendar year to exceed \$8,000,000. If this limitation is reached, the department must notify the department of commerce that the annual statewide limit has been met. In addition, the department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide the tax be paid within 30 days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(4) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(5) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(6) The equitable access to credit program must provide to the department, upon request, such information as may be needed to verify eligibility for credit under this section, including information regarding contributions received by the program.

(7) The maximum credit that may be earned for each calendar year under this section for a person is limited to the lesser of \$1,000,000 or an amount equal to 100 percent of the contributions made by the person to the equitable access to credit program.

(8) No credit may be earned for contributions made on or after June 30, 2027. Credits may be claimed as provided in subsections (2) through (4) of this section; however, credits may not be claimed prior to January 1, 2023.

(9) For the purposes of this section, "equitable access to credit program" means a program established within the department of commerce pursuant to RCW 43.390.020.

(10) The provisions of chapter 82.32 RCW apply to the administration of this section.

(11) This section expires July 1, 2027. [2022 c 189 s 2.]

**Tax preference performance statement—2022 c 189 s 2:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 189, Laws of 2022. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to create or retain jobs pursuant to RCW 82.32.808(2)(c), as well as encourage community and economic development within communities that have historically lacked access to capital.

(3) It is the legislature's specific public policy objective to create a program that encourages investment in small, underserved businesses to encourage community and economic development in Washington.

(4) The legislature intends to extend the expiration date of this tax preference if a review finds that the equitable access to credit program has had a net positive impact on investment in communities historically underserved by credit and on state and local tax revenues. In conducting its review under this section, the joint legislative audit and review committee should consider, among other data:

(a) The number and aggregate amount of loans and investments originated under the program, including with revolved dollars;

(b) Overall match, including project leverage, invested by grant recipients;

(c) The balance sheet growth of community development financial institutions that received grants from the program;

(d) Whether participants in the program achieved balance sheet growth during the time of their participation in the program;

(e) The percentage of community development financial institutions in Washington that received funding from the program; and

(f) The level of ongoing demand for funding from the program.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

(6) This section expires July 1, 2027." [2022 c 189 s 5.]

**RCW 82.04.450 Value of products, how determined.** (1) The value of products, including by-products, extracted or manufactured shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller, except:

(a) Where such products, including by-products, are extracted or manufactured for commercial or industrial use;

(b) Where such products, including by-products, are shipped, transported or transferred out of the state, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale.

(2) Except as otherwise provided in this subsection, in the cases described in subsection (1)(a) and (b) of this section, the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products.

(a) The value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond: (i) To the retail selling price of such new or improved product when first offered for sale; or (ii) to the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale. The department of revenue shall prescribe uniform and equitable rules for the purpose of ascertaining such values.

(b) In the case of asphalt or aggregates manufactured or extracted by a person providing services taxable under RCW 82.04.280(1)(b) and used by that person in providing those services, the value of the asphalt or aggregates is equal to the sum of all direct and indirect costs attributable to the asphalt or aggregates used, plus a public road construction market adjustment of five percent of those costs. [2023 c 307 s 3; 1983 1st ex.s. c 55 s 3; 1975 1st ex.s. c 278 s 42; 1961 c 15 s 82.04.450. Prior: 1949 c 228 s 3; 1941 c 178 s 4; 1935 c 180 s 7; Rem. Supp. 1949 s 8370-7.]

**Findings—Intent—2023 c 307:** "(1) The legislature finds that public road construction and repair is vital to the continued development of economic opportunity in this state.

(2) The legislature finds that the vast majority of public road construction projects involve paving companies that self-manufacture the asphalt and aggregates used in public road construction projects. Because most of the asphalt and aggregates these companies produce is used for their own public road construction projects, the legislature finds that it is difficult to obtain objective, consistent, and reliable information regarding the market value of the asphalt and aggregates used in public road construction projects.

(3) In light of the unique circumstances surrounding the valuation of self-manufactured asphalt and aggregates incorporated into public roads, the legislature intends to establish a method for valuing asphalt and aggregates that reduces the burdens on taxpayers and the department of revenue promotes certainty and consistency in the calculation of use tax and business and occupation tax on self-manufactured asphalt and aggregates across the paving industry." [2023 c 307 s 1.]

**Application—2023 c 307:** "This act applies prospectively only to tax liability incurred as a result of contracts executed on or after August 1, 2023." [2023 c 307 s 4.]

**Effective date—2023 c 307:** "This act takes effect August 1, 2023." [2023 c 307 s 5.]

**Effective dates—1983 1st ex.s. c 55:** See note following RCW 82.08.010.

**Construction—Severability—1975 1st ex.s. c 278:** See notes following RCW 11.08.160.

**RCW 82.04.460 Apportionable income—Taxable in Washington and another state. (Effective until January 1, 2034.)** (1) Except as otherwise provided in this section, any person earning apportionable income taxable under this chapter and also taxable in another state must, for the purpose of computing tax liability under this chapter, apportion to this state, in accordance with RCW 82.04.462, that portion of the person's apportionable income derived from business activities performed within this state.

(2) The department must by rule provide a method of apportioning the apportionable income of financial institutions, where such apportionable income is taxable under RCW 82.04.290. The rule adopted by the department must, to the extent feasible, be consistent with the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, except that:

(a) The department's rule must provide for a single factor apportionment method based on the receipts factor; and

(b) The definition of "financial institution" contained in appendix A to the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions is advisory only.

(3) The department may by rule provide a method or methods of apportioning or allocating gross income derived from sales of telecommunications service and competitive telephone service taxed under this chapter, if the gross proceeds of sales subject to tax under this chapter do not fairly represent the extent of the taxpayer's income attributable to this state. The rule must provide for an equitable and constitutionally permissible division of the tax base.

(4) For purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Apportionable income" means gross income of the business generated from engaging in apportionable activities, including income received from apportionable activities performed outside this state if the income would be taxable under this chapter if received from activities in this state, less the exemptions and deductions allowable under this chapter. For purposes of this subsection, "apportionable activities" means only those activities taxed under:

(i) RCW 82.04.255;

(ii) RCW 82.04.260 (3), (5), (6), (7), (8), (9), (10), and (13);

(iii) RCW 82.04.280(1)(e);

(iv) RCW 82.04.285;

(v) RCW 82.04.286;

(vi) RCW 82.04.290;

(vii) RCW 82.04.2907;

(viii) RCW 82.04.2908;

(ix) RCW 82.04.263, but only to the extent of any activity that would be taxable under any of the provisions enumerated under (a) (i) through (viii) of this subsection (4) if the tax classification in RCW 82.04.263 did not exist; and

(x) RCW 82.04.280(1) (a) or exempted under RCW 82.04.759, but only with respect to advertising.

(b) (i) "Taxable in another state" means that the taxpayer is subject to a business activities tax by another state on its income received from engaging in apportionable activities; or the taxpayer is not subject to a business activities tax by another state on its income received from engaging in apportionable activities, but any other state has jurisdiction to subject the taxpayer to a business activities tax on such income under the substantial nexus standards in RCW 82.04.067(1).

(ii) For purposes of this subsection (4) (b), "business activities tax" and "state" have the same meaning as in RCW 82.04.462. [2023 c 286 s 5; 2014 c 97 s 304; 2011 c 174 s 203; 2010 1st sp.s. c 23 s 108; 2004 c 174 s 6; 1985 c 7 s 154; 1983 2nd ex.s. c 3 s 28; 1975 1st ex.s. c 291 s 9; 1961 c 15 s 82.04.460. Prior: 1941 c 178 s 5; 1939 c 225 s 4; Rem. Supp. 1941 s 8370-8a.]

**Findings—Effective date—Expiration date—2023 c 286:** See notes following RCW 82.04.759.

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2004 c 174:** See note following RCW 82.04.2908.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Effective dates—Severability—1975 1st ex.s. c 291:** See notes following RCW 82.04.050.

**RCW 82.04.460 Apportionable income—Taxable in Washington and another state. (Effective January 1, 2034.)** (1) Except as otherwise provided in this section, any person earning apportionable income taxable under this chapter and also taxable in another state must, for the purpose of computing tax liability under this chapter, apportion to this state, in accordance with RCW 82.04.462, that portion of the person's apportionable income derived from business activities performed within this state.

(2) The department must by rule provide a method of apportioning the apportionable income of financial institutions, where such apportionable income is taxable under RCW 82.04.290. The rule adopted by the department must, to the extent feasible, be consistent with the

multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, except that:

(a) The department's rule must provide for a single factor apportionment method based on the receipts factor; and

(b) The definition of "financial institution" contained in appendix A to the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions is advisory only.

(3) The department may by rule provide a method or methods of apportioning or allocating gross income derived from sales of telecommunications service and competitive telephone service taxed under this chapter, if the gross proceeds of sales subject to tax under this chapter do not fairly represent the extent of the taxpayer's income attributable to this state. The rule must provide for an equitable and constitutionally permissible division of the tax base.

(4) For purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Apportionable income" means gross income of the business generated from engaging in apportionable activities, including income received from apportionable activities performed outside this state if the income would be taxable under this chapter if received from activities in this state, less the exemptions and deductions allowable under this chapter. For purposes of this subsection, "apportionable activities" means only those activities taxed under:

(i) RCW 82.04.255;

(ii) RCW 82.04.260 (3), (5), (6), (7), (8), (9), (10), and (13);

(iii) RCW 82.04.280(1)(e);

(iv) RCW 82.04.285;

(v) RCW 82.04.286;

(vi) RCW 82.04.290;

(vii) RCW 82.04.2907;

(viii) RCW 82.04.2908;

(ix) RCW 82.04.263, but only to the extent of any activity that would be taxable under any of the provisions enumerated under (a)(i) through (viii) of this subsection (4) if the tax classification in RCW 82.04.263 did not exist; and

(x) RCW 82.04.260(14) and 82.04.280(1)(a), but only with respect to advertising.

(b)(i) "Taxable in another state" means that the taxpayer is subject to a business activities tax by another state on its income received from engaging in apportionable activities; or the taxpayer is not subject to a business activities tax by another state on its income received from engaging in apportionable activities, but any other state has jurisdiction to subject the taxpayer to a business activities tax on such income under the substantial nexus standards in RCW 82.04.067(1).

(ii) For purposes of this subsection (4)(b), "business activities tax" and "state" have the same meaning as in RCW 82.04.462. [2014 c 97 s 304; 2011 c 174 s 203; 2010 1st sp.s. c 23 s 108; 2004 c 174 s 6; 1985 c 7 s 154; 1983 2nd ex.s. c 3 s 28; 1975 1st ex.s. c 291 s 9; 1961 c 15 s 82.04.460. Prior: 1941 c 178 s 5; 1939 c 225 s 4; Rem. Supp. 1941 s 8370-8a.]

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**Effective date—2004 c 174:** See note following RCW 82.04.2908.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Effective dates—Severability—1975 1st ex.s. c 291:** See notes following RCW 82.04.050.

**RCW 82.04.462 Apportionable income.** (1) The apportionable income of a person within the scope of RCW 82.04.460(1) is apportioned to Washington by multiplying its apportionable income by the receipts factor. Persons who are subject to tax under more than one of the tax classifications enumerated in RCW 82.04.460(4)(a) (i) through (x) must calculate a separate receipts factor for each tax classification that the person is taxable under.

(2) For purposes of subsection (1) of this section, the receipts factor is a fraction and is calculated as provided in subsections (3) and (4) of this section and, for financial institutions, as provided in the rule adopted by the department under the authority of RCW 82.04.460(2).

(3)(a) The numerator of the receipts factor is the total gross income of the business of the taxpayer attributable to this state during the tax year from engaging in an apportionable activity. The denominator of the receipts factor is the total gross income of the business of the taxpayer from engaging in an apportionable activity everywhere in the world during the tax year.

(b) Except as otherwise provided in this section, for purposes of computing the receipts factor, gross income of the business generated from each apportionable activity is attributable to the state:

(i) Where the customer received the benefit of the taxpayer's service or, in the case of gross income from royalties, where the customer used the taxpayer's intangible property. When a customer receives the benefit of the taxpayer's services or uses the taxpayer's intangible property in this and one or more other states and the amount of gross income of the business that was received by the taxpayer in return for the services received or intangible property used by the customer in this state can be reasonably determined by the taxpayer, such amount of gross income must be attributed to this state.

(ii) If the customer received the benefit of the service or used the intangible property in more than one state and if the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i) of this subsection (3), gross income of the business must be attributed to the state in which the benefit of the service was primarily received or in which the intangible property was primarily used.

(iii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i) or (ii) of this subsection (3), gross income of the business must be attributed to the state from which the customer ordered the service or, in the case of royalties, the office of the customer from which the royalty agreement with the taxpayer was negotiated.

(iv) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), or (iii) of this subsection (3), gross income of the business must be attributed to the state to which the billing statements or invoices are sent to the customer by the taxpayer.

(v) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), or (iv) of this subsection (3), gross income of the business must be attributed to the state from which the customer sends payment to the taxpayer.

(vi) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), or (v) of this subsection (3), gross income of the business must be attributed to the state where the customer is located as indicated by the customer's address: (A) Shown in the taxpayer's business records maintained in the regular course of business; or (B) obtained during consummation of the sale or the negotiation of the contract for services or for the use of the taxpayer's intangible property, including any address of a customer's payment instrument when readily available to the taxpayer and no other address is available.

(vii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), (v), or (vi) of this subsection (3), gross income of the business must be attributed to the commercial domicile of the taxpayer.

(viii) For purposes of this subsection (3)(b), "customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business. "Customer" includes anyone who pays royalties or charges in the nature of royalties for the use of the taxpayer's intangible property.

(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the receipts factor if, in respect to such activity, at least some of the activity is performed in this state, and the gross income is attributable under (b) of this subsection (3) to a state in which the taxpayer is not taxable. For purposes of this subsection (3)(c), "not taxable" means that the taxpayer is not subject to a business activities tax by that state, except that a taxpayer is taxable in a state in which it would be deemed to have a substantial nexus with that state under the standards in RCW 82.04.067(1) regardless of whether that state imposes such a tax. "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a state. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

(d) This subsection (3) does not apply to financial institutions with respect to apportionable income taxable under RCW 82.04.290. Financial institutions must calculate the receipts factor as provided in subsection (4) of this section and the rule adopted by the

department under the authority of RCW 82.04.460(2) with respect to apportionable income taxable under RCW 82.04.290. Financial institutions that are subject to tax under any other tax classification enumerated in RCW 82.04.460(4)(a)(i) through (v) and (vii) through (x) must calculate a separate receipts factor, as provided in this section, for each of the other tax classifications that the financial institution is taxable under.

(4) A taxpayer may calculate the receipts factor for the current tax year based on the most recent calendar year for which information is available for the full calendar year. If a taxpayer does not calculate the receipts factor for the current tax year based on previous calendar year information as authorized in this subsection, the business must use current year information to calculate the receipts factor for the current tax year. In either case, a taxpayer must correct the reporting for the current tax year when complete information is available to calculate the receipts factor for that year, but not later than October 31st of the following tax year. Interest will apply to any additional tax due on a corrected tax return. Interest must be computed and assessed as provided in RCW 82.32.050 and accrues until the additional taxes are paid. Penalties as provided in RCW 82.32.090 will apply to any such additional tax due only if the current tax year reporting is not corrected and the additional tax is not paid by October 31st of the following tax year. Interest as provided in RCW 82.32.060 will apply to any tax paid in excess of that properly due on a return as a result of a taxpayer using previous calendar year data or incomplete current-year data to calculate the receipts factor.

(5) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Apportionable activities" and "apportionable income" have the same meaning as in RCW 82.04.460.

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country. [2014 c 97 s 305; 2010 1st sp.s. c 23 s 105.]

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.470 Wholesale sale—Reseller permit—Exemption certificates—Burden of proof—Tax liability.** (1) The burden of proving that a sale is a wholesale sale rather than a retail sale is on the seller. A seller may meet its burden of proving a sale is a wholesale sale rather than a retail sale by taking from the buyer, at the time of sale or within a reasonable time after the sale as provided by rule of the department, a copy of a reseller permit issued to the buyer by the department under RCW 82.32.780 or 82.32.783.

(2) (a) In lieu of a copy of a reseller permit issued by the department, a seller may accept from a buyer that is required to be registered with the department under RCW 82.32.030:

(i) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board; or

(ii) Any other exemption certificate as may be authorized by the department and properly completed by the buyer.

(b) Certificates authorized under (a) (i) and (ii) of this subsection (2) must include the reseller permit number issued by the department to the buyer.

(c) A seller who accepts exemption certificates authorized in (a) of this subsection (2) is not required to verify with the department whether the buyer is required to be registered with the department under RCW 82.32.030. Nothing in this subsection (2) (c) may be construed to modify any of the provisions of RCW 82.08.050.

(3) (a) In lieu of a copy of a reseller permit issued by the department, a seller may accept from a buyer that is not required to be registered with the department under RCW 82.32.030:

(i) A properly completed uniform sales and use tax exemption certificate developed by the multistate tax commission;

(ii) A properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board; or

(iii) Any other exemption certificate as may be authorized by the department and properly completed by the buyer.

(b) A seller who accepts exemption certificates authorized in (a) of this subsection (3) is not required to verify with the department whether the buyer is not required to be registered with the department under RCW 82.32.030. Nothing in this subsection (3) (b) may be construed to modify any of the provisions of RCW 82.08.050.

(4) In lieu of obtaining the documentation in subsection (1), (2), or (3) of this section, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

(5) A seller that does not comply with subsection (1), (2), (3), or (4) of this section may meet its burden of proving that a sale is a wholesale sale rather than a retail sale by demonstrating facts and circumstances, according to rules adopted by the department, that show the sale was properly made without payment of retail sales tax.

(6) Notwithstanding anything in this section to the contrary, a seller who maintains records establishing that it uses electronic means to verify, at least once per calendar year, the validity of its customers' reseller permits need not take a copy of a reseller permit or other documentation or the data elements as authorized in subsection (1), (2), (3), or (4) of this section for wholesale sales to those customers with valid reseller permits as confirmed by the department for all sales occurring within twelve months following the date that the seller last electronically verified the validity of its customers' reseller permits. A seller that meets the requirements of this subsection will be deemed to have met its burden of proving a sale is a wholesale sale rather than a retail sale.

(7) As used in this section "reseller permit" means documentation issued by the department under RCW 82.32.780 or 82.32.783, which is used to substantiate a wholesale sale. [2010 c 112 s 7. Prior: 2009 c 563 s 205; 2009 c 535 s 411; 2007 c 6 s 1201; 2003 c 168 s 204; 1993 sp.s. c 25 s 701; 1983 2nd ex.s. c 3 s 29; 1975 1st ex.s. c 278 s 43; 1961 c 15 s 82.04.470; prior: 1935 c 180 s 9; RRS s 8370-9.]

**Retroactive application—2010 c 112:** See note following RCW 82.32.780.

**Finding—Intent—Construction—Effective date—Reports and recommendations—2009 c 563:** See notes following RCW 82.32.780.

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Part headings not law—Savings—Effective date—Severability—2007 c 6:** See notes following RCW 82.32.020.

**Findings—Intent—2007 c 6:** See note following RCW 82.14.390.

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Construction—Severability—Effective dates—1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Construction—Severability—1975 1st ex.s. c 278:** See notes following RCW 11.08.160.

*Reseller's permit: RCW 82.08.130 and 82.32.291.*

**RCW 82.04.480 Sales in own name—Sales as agent.** (1) Every consignee, bailee, factor, or auctioneer having either actual or constructive possession of personal property, or having possession of the documents of title thereto, with power to sell such personal property in that person's own name and actually so selling, is deemed the seller of such personal property within the meaning of this chapter. Furthermore, the consignor, bailor, principal, or owner is deemed a seller of such property to the consignee, bailee, factor, or auctioneer.

(2) The burden is on the taxpayer in every case to establish the fact that the taxpayer is not engaged in the business of making retail sales or wholesale sales but is acting merely as broker or agent in promoting sales for a principal. Such claim will be allowed only when the taxpayer's accounting records are kept in such manner as required by rule by the department.

(3) For purposes of this section, "personal property" means tangible personal property, digital goods, digital codes, and extended warranties. [2009 c 535 s 412; 1975 1st ex.s. c 278 s 44; 1961 c 15 s 82.04.480. Prior: 1935 c 180 s 10; RRS s 8370-10.]

**Intent—Construction—2009 c 535:** See notes following RCW 82.04.192.

**Construction—Severability—1975 1st ex.s. c 278:** See notes following RCW 11.08.160.

**RCW 82.04.500 Tax part of operating overhead.** It is not the intention of this chapter that the taxes herein levied upon persons engaging in business be construed as taxes upon the purchasers or customers, but that such taxes shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes shall constitute a part of the operating overhead of such persons. [1961 c 15 s 82.04.500. Prior: 1935 c 180 s 14; RRS s 8370-14.]

**RCW 82.04.510 General administrative provisions invoked.** All of the provisions contained in chapter 82.32 RCW shall have full force and application with respect to taxes imposed under the provisions of this chapter. Taxpayers submitting monthly estimates of taxes due under this chapter shall be subject to the provisions of chapter 82.32 RCW if they fail to remit ninety percent of the taxes actually collected or due for the reporting period. [1961 c 15 s 82.04.510. Prior: 1959 c 197 s 28; 1935 c 180 s 15; RRS s 8370-15.]

**RCW 82.04.520 Administrative provisions for motor vehicle sales by courtesy dealers.** (1) In the payment of the tax imposed by this chapter on new motor vehicles sold to Washington customers that are delivered to the customer through courtesy dealers located in this state, the courtesy dealer is deemed to be the agent for the selling dealer in reporting and paying the tax imposed by this chapter, unless the selling dealer is already registered and reporting and remitting taxes under this chapter. It is the duty of each courtesy dealer to pay the tax imposed by this chapter to the department when the courtesy dealer files its tax return. Each courtesy dealer who acts as the agent for the selling dealer in reporting, paying, and remitting the tax imposed by this chapter must at the time of paying and remitting its own taxes imposed by this chapter pay the tax due on the transaction under this section.

(2) The tax paid by the courtesy dealer on behalf of the selling dealer shall constitute a debt from the selling dealer to the courtesy dealer, and the courtesy dealer is authorized to withhold payment to the selling dealer out of the proceeds of the sale an amount equal to the tax imposed by this chapter. Amounts withheld by the courtesy dealer are deemed to be held in trust by the courtesy dealer until paid to the department, and any courtesy dealer who appropriates or converts the amount withheld to the courtesy dealer's own use or to any use other than the payment of the tax to the extent that the money withheld is not available for payment on the due date is guilty of a gross misdemeanor.

(3) This section is construed as cumulative of other methods prescribed in chapters 82.04 through 82.32 RCW, inclusive, for the collection of the tax imposed by this chapter.

(4) As used in this section, "courtesy dealer" means any licensed new motor vehicle dealer authorized to prepare or deliver a new motor vehicle to a customer in this state. "Selling dealer" means a motor vehicle dealer not licensed to prepare or deliver a new motor vehicle to a customer in this state. [2001 c 258 s 2.]

**Effective date—2001 c 258:** See note following RCW 82.04.422.

**RCW 82.04.530 Telecommunications service providers—Calculation of gross proceeds.** For purposes of this chapter, a telecommunications service provider other than a mobile telecommunications service provider must calculate gross proceeds of sales in a manner consistent with the sourcing rules provided in RCW 82.32.520. The department may adopt rules to implement this section, including rules that provide a formulary method of determining gross proceeds that reasonably approximates the taxable activity of a telephone business. [2007 c 54 s 13; 2007 c 6 s 1022; 2004 c 153 s 410; 2002 c 67 s 3.]

**Reviser's note:** This section was amended by 2007 c 6 s 1022 and by 2007 c 54 s 13, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings—Intent—2007 c 54:** "In July 2000, congress passed the mobile telecommunications sourcing act (P.L. 106-252). The act addresses the problem of determining the situs of a cellular telephone call for tax purposes. In 2002, the legislature passed Senate Bill No. 6539 (chapter 67, Laws of 2002), which addressed the sourcing of mobile telecommunications for state business and occupation tax, state and local retail sales taxes, city utility taxes, and state and county telephone access line taxes. Section 18, chapter 67, Laws of 2002 provided that the act is null and void if the federal mobile telecommunications sourcing act is substantially impaired or limited as a result of a court decision that is no longer subject to appeal. The legislature finds that the contingent null and void clause in section 18, chapter 67, Laws of 2002 has resulted in the necessity of codifying two versions of a number of statutes to incorporate contingent expiration and effective dates. The legislature recognizes that this adds complexity to the tax code and makes tax administration more difficult. The legislature further finds that there is little or no likelihood that the federal mobile telecommunications sourcing act will be substantially impaired or limited as a result of a court decision. Therefore, the legislature intends in section 2 of this act to simplify Washington's tax code and tax administration by eliminating the contingent null and void clause in section 18, chapter 67, Laws of 2002." [2007 c 54 s 1.]

**Severability—2007 c 54:** See note following RCW 82.04.050.

**Part headings not law—Savings—Effective date—Severability—2007 c 6:** See notes following RCW 82.32.020.

**Findings—Intent—2007 c 6:** See note following RCW 82.14.390.

**Retroactive effective date—Effective date—2004 c 153:** See note following RCW 82.08.0293.

**Finding—2002 c 67:** "The legislature finds that the United States congress has enacted the mobile telecommunications sourcing act for the purpose of establishing uniform nationwide sourcing rules for state and local taxation of mobile telecommunications services. The legislature desires to adopt implementing legislation governing taxation by the state and by affected local taxing jurisdictions within the state. The legislature recognizes that the federal act is

intended to provide a clarification of sourcing rules that is revenue-neutral among the states, and that the clarifications required by the federal act are likely in fact to be revenue-neutral at the state level. The legislature also desires to take advantage of a provision of the federal act that allows a state with a generally applicable business and occupation tax, such as this state, to make certain of the uniform sourcing rules elective for such tax." [2002 c 67 s 1.]

**Effective date—2002 c 67:** "This act takes effect August 1, 2002." [2002 c 67 s 19.]

**RCW 82.04.535 Gross proceeds of sales calculation for mobile telecommunications service provider.** (1) Unless a mobile telecommunications service provider elects to be taxed under subsection (2) of this section, the mobile telecommunications service provider must calculate gross proceeds of sales by reporting all sales to, or sales between carriers for, customers with a place of primary use within this state, regardless of where the mobile telecommunications services originate, are received, or are billed, consistent with the mobile telecommunications sourcing act, P.L. 106-252, 4 U.S.C. Secs. 116 through 126.

(2) A mobile telecommunications service provider may elect to calculate gross proceeds of sales by including all charges for mobile telecommunications services provided to all consumers, whether the consumers are the mobile telecommunications service provider's customers or not, if the services originate from or are received on telecommunications equipment or apparatus in this state and are billed to a person in this state.

(3) If a mobile telecommunications service provider elects to be taxed under subsection (2) of this section, the mobile telecommunications service provider must provide written notice of the election before August 1, 2002, or before the beginning date of any tax year thereafter in which it wishes to change its reporting and make this election.

(4) The department may provide, by rule, for formulary reporting as necessary to implement this section. [2002 c 67 s 4.]

**Finding—Effective date—2002 c 67:** See notes following RCW 82.04.530.

**RCW 82.04.540 Professional employer organizations—Taxable under RCW 82.04.290(2)—Deduction.** (1) The provision of professional employer services by a professional employer organization is taxable under RCW 82.04.290(2).

(2) A professional employer organization is allowed a deduction from the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

(3) For the purposes of this section, the following definitions apply:

(a) "Client" means any person who enters into a professional employer agreement with a professional employer organization. For purposes of this subsection (3)(a), "person" has the same meaning as "buyer" in RCW 82.08.010.

(b) "Coemployer" means either a professional employer organization or a client.

(c) "Coemployment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project-specific one, wherein the rights, duties, and obligations of an employer which arise out of an employment relationship have been allocated between coemployers pursuant to a professional employer agreement and applicable state law. In such a coemployment relationship:

(i) The professional employer organization is entitled to enforce only such employer rights and is subject to only those obligations specifically allocated to the professional employer organization by the professional employer agreement or applicable state law;

(ii) The client is entitled to enforce those rights and obligated to provide and perform those employer obligations allocated to such client by the professional employer agreement and applicable state law; and

(iii) The client is entitled to enforce any right and obligated to perform any obligation of an employer not specifically allocated to the professional employer organization by the professional employer agreement or applicable state law.

(d) "Covered employee" means an individual having a coemployment relationship with a professional employer organization and a client who meets all of the following criteria: (i) The individual has received written notice of coemployment with the professional employer organization, and (ii) the individual's coemployment relationship is pursuant to a professional employer agreement. Individuals who are officers, directors, shareholders, partners, and managers of the client are covered employees to the extent the professional employer organization and the client have expressly agreed in the professional employer agreement that such individuals would be covered employees and provided such individuals meet the criteria of this subsection and act as operational managers or perform day-to-day operational services for the client.

(e) "Professional employer agreement" means a written contract by and between a client and a professional employer organization that provides:

(i) For the coemployment of covered employees; and

(ii) For the allocation of employer rights and obligations between the client and the professional employer organization with respect to the covered employees.

(f) "Professional employer organization" means any person engaged in the business of providing professional employer services. The following shall not be deemed to be professional employer organizations or the providing of professional employer services for purposes of this section:

(i) Arrangements wherein a person, whose principal business activity is not entering into professional employer arrangements and which does not hold itself out as a professional employer organization, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended;

(ii) Independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by such person or his or her agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under such arrangements; or

(iii) Providing staffing services.

(g) "Professional employer services" means the service of entering into a coemployment relationship with a client in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees.

(h) "Staffing services" means services consisting of a person:

(i) Recruiting and hiring its own employees;

(ii) Finding other organizations that need the services of those employees;

(iii) Assigning those employees on a temporary basis to perform work at or services for the other organizations to support or supplement the other organizations' workforces, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects, all under the direction and supervision of the customer; and

(iv) Customarily attempting to reassign the employees to other organizations when they finish each assignment. [2006 c 301 s 1.]

**Effective date—Act does not affect application of Title 50 or 51 RCW—2006 c 301:** See notes following RCW 82.32.710.

**RCW 82.04.545 Exemptions—Sales of electricity or gas to silicon smelters. (Contingent expiration date.)** (1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to a silicon smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the silicon smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to a silicon smelter multiplied by the corresponding rate in effect at the time of the sale under this chapter.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process.

(4) The department must provide a separate tax reporting line for reporting credits under this section by sellers of electricity, natural gas, or manufactured gas.

(5) For purposes of the annual tax performance report required by RCW 82.32.534:

(a) The silicon smelter receiving the benefit of the credit under this section is deemed to be the taxpayer claiming the credit and is required to file the annual tax performance report; and

(b) The person selling the electricity, natural gas, or manufactured gas to the silicon smelter is not required to file the annual tax performance report.

(6) For the purposes of this section, "silicon smelter" has the same meaning as provided in RCW 82.16.315. [2017 3rd sp.s. c 37 s 705; 2017 3rd sp.s. c 37 s 704.]

**Contingent expiration date—2017 3rd sp.s. c 37 ss 701-708:** See note following RCW 82.32.537.

**Findings—Intent—Tax preference performance statement—2017 3rd sp.s. c 37 ss 701-708:** See note following RCW 82.16.315.

**Effective date—2017 3rd sp.s. c 37 ss 101-104, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, 707, and 801-803:** See note following RCW 82.04.2404.

**RCW 82.04.600 Exemptions—Materials printed in county, city, town, school district, educational service district, library or library district.** This chapter does not apply to any county as defined in Title 36 RCW, any city or town as defined in Title 35 RCW, any school district or educational service district as defined in Title 28A RCW, or any library or library district as defined in Title 27 RCW, in respect to materials printed in the county, city, town, school district, educational district, library or library district facilities when the materials are used solely for county, city, town, school district, educational district, library, or library district purposes. [1979 ex.s. c 266 s 8.]

**RCW 82.04.601 Exemptions—Affixing stamp services for cigarette sales.** This chapter does not apply to compensation allowed under RCW 82.24.295 for wholesalers and retailers for their services in affixing the stamps required under chapter 82.24 RCW. For purposes of this section, "wholesaler," "retailer," and "stamp" have the same meaning as in chapter 82.24 RCW. [2007 c 221 s 5.]

**RCW 82.04.610 Exemptions—Import or export commerce.** (1) This chapter does not apply to:

(a) The sale of tangible personal property in export commerce; and

(b) The wholesale sale of tangible personal property in import commerce, but only when the wholesale sale is:

(i) A sale of unroasted coffee beans; or

(ii) Between a parent company and its wholly owned subsidiary.

(2) Tangible personal property is in import commerce while the property is in the process of import transportation. Except as provided in (a) through (c) of this subsection, property is in the process of import transportation from the time the property begins its transportation at a point outside of the United States until the time that the property is delivered to the buyer in this state. Property is also in the process of import transportation if it is merely flowing through this state on its way to a destination in some other state or country. However, property is no longer in the process of import transportation when the property is:

(a) Put to actual use in any state, territory, or possession of the United States for any purpose;

(b) Resold by the importer or any other person after the property has arrived in this state or any other state, territory, or possession of the United States, regardless of whether the property is in its original unbroken package or container; or

(c) Processed, handled, or otherwise stopped in transit for a business purpose other than shipping needs, if the processing, handling or other stoppage of transit occurs within the United States, including any of its possessions or territories, or the territorial waters of this state or any other state, regardless of whether the processing, handling, or other stoppage of transit occurs within a foreign trade zone.

(3) (a) Tangible personal property is in export commerce when the seller delivers the property to:

(i) The buyer at a destination in a foreign country;

(ii) A carrier consigned to and for transportation to a destination in a foreign country;

(iii) The buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the property has begun; or

(iv) The buyer in this state if the property is capable of being transported to a foreign destination under its own power, the seller files a shipper's export declaration with respect to the property listing the seller as the exporter, and the buyer immediately transports the property directly to a destination in a foreign country. This subsection (3) (a) (iv) does not apply to sales of motor vehicles as defined in RCW 46.04.320.

(b) The exemption under this subsection (3) applies with respect to property delivered to the buyer in this state if, at the time of delivery, there is a certainty of export, and the process of export has begun. The process of exportation will not be deemed to have begun if the property is merely in storage awaiting shipment, even though there is reasonable certainty that the property will be exported. The intention to export, as evidenced for example, by financial and contractual relationships does not indicate certainty of export. The process of exportation begins when the property starts its final and certain continuous movement to a destination in a foreign country.

(4) Persons claiming an exemption under this section must keep and maintain records for the period required by RCW 82.32.070 establishing their right to the exemption. [2019 c 8 s 501; 2007 c 477 s 2.]

**Effective date—2019 c 8 ss 101, 104, 106, 201, 402-405, and 501:**  
See note following RCW 82.02.250.

**Existing rights and liability—Retroactive application—2019 c 8:**  
See notes following RCW 82.02.250.

**Intent—Purpose—2007 c 477:** "Because of the uncertainty regarding the constitutional limitations on the taxation of import and export sales of tangible personal property, the legislature recognizes the need to provide clarity in the taxation of imports and exports. It is the legislature's intent to provide a statutory tax exemption for the sale of tangible personal property in import or export commerce, which is not dependent on future interpretation of the constitutional limitations on the taxation of imports and exports by the courts. The sole purpose of the legislature in enacting RCW 82.04.610 and

82.08.990 is to codify current department practice in the taxation of import and export sales of tangible personal property consistent with WAC 458-20-193C. It is not the intent of the legislature in enacting RCW 82.04.610 and 82.08.990 to eliminate, narrow, or expand existing exemptions under WAC 458-20-193C." [2007 c 477 s 1.]

**RCW 82.04.615 Exemptions—Certain limited purpose public corporations, commissions, and authorities.** This chapter does not apply to public corporations, commissions, or authorities created under RCW 35.21.660 or 35.21.730 for amounts derived from sales of tangible personal property and services to:

- (1) A limited liability company in which the corporation, commission, or authority is the managing member;
- (2) A limited partnership in which the corporation, commission, or authority is the general partner; or
- (3) A single asset entity required under any federal, state, or local governmental housing assistance program, which is controlled directly or indirectly by the corporation, commission, or authority. [2007 c 381 s 1.]

**RCW 82.04.620 Exemptions—Certain prescription drugs.** In computing tax there may be deducted from the measure of tax imposed by RCW 82.04.290(2) amounts received by physicians or clinics for drugs for infusion or injection by licensed physicians or their agents for human use pursuant to a prescription, but only if the amounts: (1) Are separately stated on invoices or other billing statements; (2) do not exceed the then current federal rate; and (3) are covered or required under a health care service program subsidized by the federal or state government. The federal rate means the rate at or below which the federal government or its agents reimburse providers for prescription drugs administered to patients as provided for in the medicare, part B, drugs average sales price information resource as published by the United States department of health and human services, or any successor index thereto. [2007 c 447 s 1.]

**Effective date—2007 c 447:** "This act takes effect October 1, 2007." [2007 c 447 s 2.]

**RCW 82.04.627 Exemptions—Commercial airplane parts.** (1) Except as provided in subsection (2) of this section, for purposes of the taxes imposed under this chapter on the sale of parts to the manufacturer of a commercial airplane, the sale is deemed to take place at the site of the final testing or inspection under federal aviation regulation part 21, subpart F or G.

- (2) This section does not apply to:
  - (a) Sales of a standard part, such as a nut or bolt, manufactured in compliance with a government or established industry specification;
  - (b) Sales of a product produced under a technical standard order authorization or letter of technical standard order design approval pursuant to federal aviation regulation part 21, subpart O; or
  - (c) Sales of parts in respect to which final testing or inspection under federal aviation regulation part 21, subpart F or G takes place in this state.

(3) "Commercial airplane" has the same meaning given in RCW 82.32.550. [2015 c 86 s 301; 2008 c 81 s 15.]

**Findings—Savings—Effective date—2008 c 81:** See notes following RCW 82.08.975.

**RCW 82.04.628 Exemptions—Commercial fertilizer, agricultural crop protection products, and seed.** (1) This chapter does not apply to wholesale sales of commercial fertilizer, agricultural crop protection products, and seed, by an eligible distributor to an eligible retailer.

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

(a) "Affiliated persons" means persons who have any ownership interest, whether direct or indirect, in each other, or where any ownership interest, whether direct or indirect, is held in each of the persons by another person or by a group of other persons that are affiliated with respect to each other.

(b) "Agricultural crop protection products" has the same meaning as provided in RCW 82.21.040.

(c) "Commercial fertilizer" has the same meaning as provided in RCW 15.54.270.

(d) "Seed" means seed potatoes and all other "agricultural seed" as defined in RCW 15.49.011 and conditioned for use in planting.

(e) "Eligible distributor" means a wholesaler who purchases commercial fertilizer, agricultural crop protection products, and seed from the manufacturer and resells those products only to eligible retailers who are not affiliated persons and who have an ownership interest in an entity that has at least a fifty percent ownership interest in the wholesaler.

(f) "Eligible retailer" means a person engaged in the business of making retail sales of commercial fertilizer, agricultural crop protection products, and seed, that also holds at least a five percent ownership interest in an entity that holds at least a fifty percent ownership interest in an eligible distributor.

(3) This section is exempt from the provisions of RCW 82.32.805 and 82.32.808. [2017 3rd sp.s. c 37 s 302.]

**Tax preference performance statement—2017 3rd sp.s. c 37 s 302:**

"(1) This section is the tax preference performance statement for the tax preferences contained in section 302, chapter 37, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to reduce structural inefficiencies, as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to provide tax relief to certain distributors of commercial fertilizer, agricultural crop protection products, and seeds. If a review finds that the number of wholesalers of agricultural crop protection products, seed, and fertilizer qualifying for the exemption has increased or stayed the same, then the legislature intends to extend the expiration date of the tax preferences.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to the department of revenue's data." [2017 3rd sp.s. c 37 s 301.]

**Effective date—2017 3rd sp.s. c 37 ss 301, 302, and 1001-1003:**

"Parts III and X of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2017." [2017 3rd sp.s. c 37 s 1402.]

**RCW 82.04.635 Exemptions—Nonprofits providing legal services to low-income persons.** This chapter does not apply to nonprofit organizations primarily engaged in the provision of legal services to low-income individuals from whom no charge for services is collected. For the purpose of this section, "nonprofit" means an organization exempt from federal income tax under Title 26 U.S.C. Sec. 501(c) of the federal internal revenue code. [2009 c 508 s 1.]

**RCW 82.04.640 Exemptions—Washington vaccine association—Certain assessments received.** This chapter does not apply to assessments described in RCW 70.290.030 and 70.290.040 received by a nonprofit corporation established under RCW 70.290.020. [2010 c 174 s 16.]

**Effective date—2010 c 174:** See RCW 70.290.900.

**RCW 82.04.645 Exemptions—Financial institutions—Amounts received from certain affiliated persons.** (1) This chapter does not apply to amounts received by a financial institution from an affiliated person if the amounts are received from transactions that are required to be at arm's length under sections 23A or 23B of the federal reserve act as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. For purposes of this subsection, "financial institution" has the same meaning as in RCW 82.04.080.

(2) As used in this section, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. [2011 c 174 s 102; 2010 1st sp.s. c 23 s 110.]

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.650 Exemptions—Investment conduits and securitization entities.** (1) This chapter does not apply to amounts received by investment conduits or securitization entities from cash and securities.

(2) For purposes of this section, the following definitions apply:

(a) "Investment conduit" means an entity formed by a financial institution as defined in RCW 82.04.080 for the express purpose of holding or owning cash or securities if the entity formed:

- (i) Has no employees;
- (ii) Has no direct profit-making motive;
- (iii) Owns no tangible assets, other than cash or securities;
- (iv) Holds or owns cash or securities solely as a conduit, allocating its income to holders of its ownership interests; and
- (v) Has, within twelve months of its organization or initial capitalization date, issued ownership interests to other than affiliated persons, equal to or greater than twenty-five percent of its total issued ownership interests.

(b) "Securities" has the same meaning as in section 2 of the securities act of 1933 and includes eligible assets as defined by Rule 3a-7 of the investment company act, as the law and rule exist on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(c) "Securitization entity" means an entity created by a bank holding company if the entity created:

- (i) Has no employees;
- (ii) Has no direct profit-making motive;
- (iii) Owns no tangible assets, other than cash, fixed or revolving discrete pools of credit or charge card receivables originated by a financial institution, or securities;
- (iv) Acts solely as a conduit, allocating its income to holders of its ownership interests; and
- (v) Has as its sole business activities the:

(A) Acquisition of such discrete pools of credit or charge card receivables; and

(B) Issuance or causing the issuance of securities primarily to persons not affiliated with the entity.

(d) "Bank holding company" has the same meaning as provided in the bank holding company act of 1956, as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(e) "No direct profit-making motive" means that all of an entity's income, less a reasonable servicing fee, is paid to holders of its ownership interests.

(f) "Ownership interest" means interests categorized as debt or equity for purposes of federal tax or generally accepted accounting principles.

(g) "Affiliated" has the same meaning as in RCW 82.04.645. [2010 1st sp.s. c 23 s 111.]

**Contingency—Application—2010 1st sp.s. c 23 ss 102-112:** See notes following RCW 82.04.067.

**Effective date—2010 1st sp.s. c 23:** See note following RCW 82.04.4292.

**Findings—Intent—2010 1st sp.s. c 23:** See notes following RCW 82.04.220.

**RCW 82.04.655 Exemptions—Joint municipal utility services authorities.** This chapter does not apply to any payments between, or any transfer of assets to or from, a joint municipal utility services authority created under chapter 39.106 RCW and any of its members. [2011 c 258 s 11.]

**Short title—Purpose—Intent—2011 c 258:** See RCW 39.106.010.

**RCW 82.04.660 Exemptions—Environmental handling charges—Mercury-containing lights. (Effective until January 1, 2035.)** (1) An exemption from the taxes imposed in this chapter is provided for:

- (a) Producers, with respect to environmental handling charges added to the purchase price of mercury-containing lights either by the producer or a retailer pursuant to an agreement with the producer;
- (b) Retailers, with respect to environmental handling charges added to the purchase price of mercury-containing lights sold at retail, including the portion of environmental handling charges retained as reimbursement for any costs associated with the collection and remittance of the charges; and
- (c) Stewardship organizations, with respect to environmental handling charges received from producers and retailers and to the receipts from charges to participating producers and legacy producers.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808.

(3) For purposes of this section, the definitions in RCW 70A.505.020 apply. [2024 c 339 s 15; 2020 c 20 s 1469; 2015 c 185 s 2.]

**Finding—Intent—2024 c 339:** See note following RCW 70A.505.010.

**Finding—Intent—2015 c 185:** "The legislature finds that Engrossed Substitute House Bill No. 2246, enacted in 2014, created an environmental handling charge. However, the 2014 legislature did not intend for business and occupation taxes to be imposed on top of such charge. Therefore, the legislature intends to clarify that environmental handling charges are not subject to business and occupation taxation." [2015 c 185 s 1.]

**RCW 82.04.665 Exemptions—Adaptive recreational and rehabilitation facilities. (Effective October 1, 2024, until January 1, 2035.)** (1) This chapter does not apply to any amounts received as the result of sales on a federal military reservation by a nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of October 1, 2024, that operates an adaptive recreational and rehabilitation facility dedicated to the assistance of disabled veterans and members of the armed forces of the United States of America.

(2) For the purposes of this section, "adaptive recreational and rehabilitation facility" means a facility that provides activity modifications, assistive technologies, or other services to allow

people with disabilities to participate in recreational activities, sports, or physical rehabilitation efforts.

(3) This section expires January 1, 2035. [2024 c 141 s 2.]

**Tax preference performance statement—2024 c 141 ss 2-4:** "(1)

This section is the tax preference performance statement for the tax preference contained in sections 2 through 4, chapter 141, Laws of 2024. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to reduce the tax burden on individuals and businesses imposed by the existing business and occupation tax rates.

(4) If the review finds that there is an increase of the utilization of adaptive recreational and rehabilitation facilities by disabled veterans and members of the armed forces of the United States of America then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state." [2024 c 141 s 1.]

**Effective date—2024 c 141:** "This act takes effect October 1, 2024." [2024 c 141 s 5.]

**RCW 82.04.750 Exemptions—Restaurant employee meals.** (1) This chapter does not apply in respect to meals provided by a restaurant without specific charge to its employees.

(2) For the purposes of this section, the definitions in RCW 82.08.9995 apply. [2015 c 86 s 302; 2011 c 55 s 1.]

**Effective date—2011 c 55:** See note following RCW 82.08.9995.

**RCW 82.04.755 Exemptions—Grants received by a nonprofit organization for the program established under RCW**

**70A.200.140(1)(b)(ii).** (1) This chapter does not apply to grants received by a nonprofit organization from the matching fund competitive grant program established in RCW 70A.200.140(1)(b)(ii).

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808, and is not subject to an expiration date. [2020 c 20 s 1470; 2015 c 15 s 7.]

**RCW 82.04.756 Exemptions—Cannabis cooperatives.** (1) This chapter does not apply to any cooperative in respect to growing cannabis, or manufacturing cannabis concentrates, useable cannabis, or cannabis-infused products, as those terms are defined in RCW 69.50.101.

(2) The tax preference authorized in this section is not subject to the provisions of RCW 82.32.805 and 82.32.808. [2022 c 16 s 143; 2015 c 70 s 40.]

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49:** See note following RCW 69.50.357.

**Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70:** See notes following RCW 66.08.012.

**RCW 82.04.758 Exceptions—Services for farms.** (1) This chapter does not apply to any:

(a) Person performing custom farming services for a farmer, when the person performing the custom farming services is: (i) An eligible farmer; or (ii) at least 50 percent owned by an eligible farmer; or

(b) Person performing farm management services, contract labor services, services provided with respect to animals that are agricultural products, or any combination of these services, for a farmer or for a person performing custom farming services, when the person performing the farm management services, contract labor services, services with respect to animals, or any combination of these services, and the farmer or person performing custom farming services are related.

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

(a) (i) "Custom farming services" means the performance of specific farming operations through the use of any farm machinery or equipment, farm implement, or draft animal, together with an operator, when: (A) The specific farming operation consists of activities directly related to the growing, raising, or producing of any agricultural product to be sold or consumed by a farmer; and (B) the performance of the specific farming operation is for, and under a contract with, or the direction or supervision of, a farmer. "Custom farming services" does not include the custom application of fertilizers, chemicals, or biologicals, or any services related to the growing, raising, or producing of cannabis.

(ii) For the purposes of this subsection (2) (a), "specific farming operation" includes specific planting, cultivating, or harvesting activities, or similar specific farming operations. The term does not include veterinary services as defined in RCW 18.92.010; farrier, boarding, training, or appraisal services; artificial insemination or stud services, or agricultural consulting services; packing or processing of agricultural products; or pumping or other waste disposal services.

(b) "Eligible farmer" means a person who is eligible for an exemption certificate under RCW 82.08.855 at the time that the custom farming services are rendered, regardless of whether the person has applied for an exemption certificate under RCW 82.08.855.

(c) "Farm management services" means the consultative decisions made for the operations of the farm including, but not limited to, determining which crops to plant, the choice and timing of application of fertilizers and chemicals, the horticultural practices to apply,

the marketing of crops and livestock, and the care and feeding of animals. "Farm management services" does not include any services related to the growing, raising, or producing of cannabis.

(d) "Related" means having any of the relationships specifically described in section 267(b) (1), (2), and (4) through (13) of the internal revenue code, as amended or renumbered as of January 1, 2007. [2023 c 470 s 3015; 2022 c 119 s 1.]

**Explanatory statement—2023 c 470:** See note following RCW 10.99.030.

**Tax preference performance statement—2022 c 119:** "(1) This section is the tax preference performance statement for the tax preference contained in sections 1 and 2, chapter 119, Laws of 2022. This performance statement is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to reduce structural inefficiencies in the tax structure, as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to provide tax relief to farmers, including those who changed their farm structure in response to federal regulations regarding irrigated water." [2022 c 119 s 3.]

**Tax preference automatic expiration date exemption—Tax preference metrics exemption—2022 c 119:** "The provisions of RCW 82.32.805 and 82.32.808(4) do not apply to this act." [2022 c 119 s 4.]

**Effective date—2022 c 119:** "This act takes effect July 1, 2022." [2022 c 119 s 5.]

**RCW 82.04.759 Exemptions—Newspapers—Eligible digital content. (Effective until January 1, 2026.)** (1) This chapter does not apply to amounts received by any person for engaging in any of the following activities:

(a) Printing a newspaper, publishing a newspaper, or both; or

(b) Publishing eligible digital content by a person who reported under the printing and publishing tax classification for the reporting period that covers January 1, 2008, for engaging in printing and/or publishing a newspaper, as defined on January 1, 2008.

(2) The exemption under this section must be reduced by an amount equal to the value of any expenditure made by the person during the tax reporting period. For purposes of this subsection, "expenditure" has the meaning provided in \*RCW 42.17A.005.

(3) If a person who is primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, charges a single, nonvariable amount to advertise in, subscribe to, or access content in both a publication identified in subsection (1) of this section and another type of publication, the entire amount is exempt under this section.

(4) For purposes of this section, "eligible digital content" means a publication that:

(a) Is published at regularly stated intervals of at least once per month;

(b) Features written content, the largest category of which, as determined by word count, contains material that identifies the author or the original source of the material; and

(c) Is made available to readers exclusively in an electronic format.

(5) The exemption under this section applies only to persons primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, unless these business activities were previously engaged in by an affiliated person and were not the affiliated person's primary business activity.

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

(a) "Affiliated" has the same meaning as provided in RCW 82.04.299.

(b) "Primarily" means, with respect to a business activity or combination of business activities of a taxpayer, more than 50 percent of the taxpayer's gross worldwide income from all business activities, whether subject to tax under this chapter or not, comes from such activity or activities. [2024 c 252 s 2; 2023 c 286 s 2.]

**\*Reviser's note:** RCW 42.17A.005 was repealed by 2024 c 164 s 257, effective January 1, 2026.

**Expiration date—2024 c 252 s 2:** "Section 2 of this act expires January 1, 2034." [2024 c 252 s 7.]

**Tax preference performance statement—2023 c 286 s 2:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 286, Laws of 2023. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals and to create or retain jobs, as indicated in RCW 82.32.808(2) (c) and (e).

(3) It is the legislature's specific public policy objective to protect and support local journalism.

(4) If a review finds that the tax preference accomplishes its goal of supporting local journalism across the state, measured by retaining 75 percent of the journalism jobs, local newspapers, and community-focused online news outlets based in Washington as of December 31, 2022, or if a review finds that the tax preference enables locally based journalism outlets to continue to exist when compared to states that did not provide similar tax incentives, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

(6) RCW 82.32.808(6) does not apply to the tax preference created in section 2 of this act." [2023 c 286 s 7.]

**Findings—2023 c 286:** "The legislature finds that Washington state's local newspapers and online digital news publishers are important providers of journalism in their communities. Across the state and the country, local newspapers are vanishing at an alarming rate.

Since the advent of the internet, Washington state newspapers, large and small, have experienced severe financial losses that caused layoffs and reduced journalistic capacity. Between 2005 and 2020, Washington state newspapers lost 67 percent of their newsroom employees. Many print media organizations operate at a deficit due to disruption of traditional revenue streams and even the surviving legacy news organizations are cutting staff and circulation. Washington state has lost more than two dozen weeklies and three dailies since 2004. The decline of these journalistic institutions represents a threat to democracy, government accountability, and civic engagement.

A Portland State University study found that the loss of local journalism is correlated to a decline in civic engagement, both nationally and in Washington state, which includes contacting a public office to express an opinion, participating in school groups, community associations, or civic organizations, and serving on a committee of any group or organization.

The legislature finds that local journalism can help keep watch over health trends in the community by identifying and preventing disease. The legislature finds that rural and underserved communities are the hardest hit in the area of public health when newspapers decline.

The legislature finds that local journalism helps combat government corruption and holds powerful institutions accountable.

Newspapers in Washington state have lobbied and editorialized for open public records, and fought attempts to rein in frivolous requests, costing local and state governments millions of dollars each year.

Without legislative action, the current business and occupation tax preference for newspaper publishers will expire on July 1, 2024." [2023 c 286 s 1.]

**Effective date—2023 c 286:** "This act takes effect January 1, 2024." [2023 c 286 s 8.]

**Expiration date—2023 c 286:** "This act expires January 1, 2034." [2023 c 286 s 9.]

**RCW 82.04.759 Exemptions—Newspapers—Eligible digital content. (Effective January 1, 2026, until January 1, 2034.)** (1) This chapter does not apply to amounts received by any person for engaging in any of the following activities:

(a) Printing a newspaper, publishing a newspaper, or both; or  
(b) Publishing eligible digital content by a person who reported under the printing and publishing tax classification for the reporting period that covers January 1, 2008, for engaging in printing and/or publishing a newspaper, as defined on January 1, 2008.

(2) The exemption under this section must be reduced by an amount equal to the value of any expenditure made by the person during the

tax reporting period. For purposes of this subsection, "expenditure" has the meaning provided in RCW 29B.10.230.

(3) If a person who is primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, charges a single, nonvariable amount to advertise in, subscribe to, or access content in both a publication identified in subsection (1) of this section and another type of publication, the entire amount is exempt under this section.

(4) For purposes of this section, "eligible digital content" means a publication that:

(a) Is published at regularly stated intervals of at least once per month;

(b) Features written content, the largest category of which, as determined by word count, contains material that identifies the author or the original source of the material; and

(c) Is made available to readers exclusively in an electronic format.

(5) The exemption under this section applies only to persons primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, unless these business activities were previously engaged in by an affiliated person and were not the affiliated person's primary business activity.

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

(a) "Affiliated" has the same meaning as provided in RCW 82.04.299.

(b) "Primarily" means, with respect to a business activity or combination of business activities of a taxpayer, more than 50 percent of the taxpayer's gross worldwide income from all business activities, whether subject to tax under this chapter or not, comes from such activity or activities. [2024 c 252 s 2; 2024 c 164 s 534; 2023 c 286 s 2.]

**Reviser's note:** This section was amended by 2024 c 164 s 534 and by 2024 c 252 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Expiration date—2024 c 252 s 2:** "Section 2 of this act expires January 1, 2034." [2024 c 252 s 7.]

**Expiration date—2024 c 164 s 534:** "Section 534 of this act expires January 1, 2034." [2024 c 164 s 535.]

**Intent—Construction—Rules remain valid—Effective date—2024 c 164:** See notes following RCW 29B.10.010.

**Tax preference performance statement—2023 c 286 s 2:** "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 286, Laws of 2023. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals

and to create or retain jobs, as indicated in RCW 82.32.808(2) (c) and (e).

(3) It is the legislature's specific public policy objective to protect and support local journalism.

(4) If a review finds that the tax preference accomplishes its goal of supporting local journalism across the state, measured by retaining 75 percent of the journalism jobs, local newspapers, and community-focused online news outlets based in Washington as of December 31, 2022, or if a review finds that the tax preference enables locally based journalism outlets to continue to exist when compared to states that did not provide similar tax incentives, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

(6) RCW 82.32.808(6) does not apply to the tax preference created in section 2 of this act." [2023 c 286 s 7.]

**Findings—2023 c 286:** "The legislature finds that Washington state's local newspapers and online digital news publishers are important providers of journalism in their communities. Across the state and the country, local newspapers are vanishing at an alarming rate.

Since the advent of the internet, Washington state newspapers, large and small, have experienced severe financial losses that caused layoffs and reduced journalistic capacity. Between 2005 and 2020, Washington state newspapers lost 67 percent of their newsroom employees. Many print media organizations operate at a deficit due to disruption of traditional revenue streams and even the surviving legacy news organizations are cutting staff and circulation. Washington state has lost more than two dozen weeklies and three dailies since 2004. The decline of these journalistic institutions represents a threat to democracy, government accountability, and civic engagement.

A Portland State University study found that the loss of local journalism is correlated to a decline in civic engagement, both nationally and in Washington state, which includes contacting a public office to express an opinion, participating in school groups, community associations, or civic organizations, and serving on a committee of any group or organization.

The legislature finds that local journalism can help keep watch over health trends in the community by identifying and preventing disease. The legislature finds that rural and underserved communities are the hardest hit in the area of public health when newspapers decline.

The legislature finds that local journalism helps combat government corruption and holds powerful institutions accountable.

Newspapers in Washington state have lobbied and editorialized for open public records, and fought attempts to rein in frivolous requests, costing local and state governments millions of dollars each year.

Without legislative action, the current business and occupation tax preference for newspaper publishers will expire on July 1, 2024." [2023 c 286 s 1.]

**Effective date—2023 c 286:** "This act takes effect January 1, 2024." [2023 c 286 s 8.]

**Expiration date—2023 c 286:** "This act expires January 1, 2034." [2023 c 286 s 9.]

**RCW 82.04.760 Tax preferences—Expiration dates.** See RCW 82.32.805 for the expiration date of new tax preferences for the tax imposed under this chapter. [2013 2nd sp.s. c 13 s 1704.]

**Effective date—2013 2nd sp.s. c 13:** See note following RCW 82.04.43393.

**RCW 82.04.765 Exemptions—Receipts attributable to assessment on architectural paint imposed pursuant to chapter 70A.515 RCW.** (1) This chapter does not apply to the receipts attributable to the assessment on architectural paint imposed pursuant to chapter 70A.515 RCW.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808, and is not subject to an expiration date. [2020 c 20 s 1471; 2019 c 344 s 15.]

**RCW 82.04.767 Exemptions—Qualifying grants—National emergency or state of emergency.** (1) This chapter does not apply to any person with respect to the value proceeding or accruing from a qualifying grant received on or after February 29, 2020.

(2) For purposes of this section, "qualifying grant" means an amount received, or relief from debt or other legal obligation received, that:

(a) Is received under a government-funded program either directly from a government entity, or through a nongovernmental third-party entity authorized by a government entity to distribute the program funds, or, in the case of relief from debt or other legal obligation, is received from a private entity under circumstances where, in exchange for providing the relief, the private entity receives some form of direct financial benefit from a government entity;

(b) Is provided to address the impacts of conditions giving rise to an official proclamation of a national emergency by the president of the United States or an official proclamation of a state of emergency by the governor of this state; and

(c) Is not an amount received:

(i) Under a contract, including a sole source contract, for the acquisition of specific goods or services, or both, by purchase, lease, or barter, that was solicited and established in accordance with procurement laws or regulations; or

(ii) For manufacturing, extracting, or making sales of products, when the amount received is determined based on the quantity of products manufactured, extracted, or sold. For purposes of this subsection (2)(c)(ii), "products" has the same meaning as in RCW 82.32.023.

(3) For purposes of a grant awarded to address the impacts of conditions giving rise to a national emergency or state of emergency, the exemption under this section applies only if the legislation authorizing the grant or the associated legislative history, public

records created by the grantor, or the terms of the underlying grant agreement between the grantor and grantee, clearly indicate that the grant was established to address the impacts of conditions giving rise to a national emergency or state of emergency.

(4) For purposes of this section, "government" means any national, tribal, state, or local government. [2021 c 4 s 1.]

**Retroactive application—2021 c 4:** "This act applies both prospectively and retroactively to February 29, 2020." [2021 c 4 s 7.]

**Automatic expiration date and tax preference performance statement exemption—2021 c 4:** "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2021 c 4 s 8.]

**Effective date—2021 c 4:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 19, 2021]." [2021 c 4 s 9.]

**RCW 82.04.769 Application of chapter—Allowances, offset credits, and price ceiling units under chapter 70A.65 RCW.** (1) This chapter does not apply to amounts received by a covered entity, opt-in entity, or entity that receives no-cost allowances, as defined in chapter 70A.65 RCW, from the receipt, generation, purchase, sale, transfer, or retirement of allowances, offset credits, or price ceiling units under chapter 70A.65 RCW.

(2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to subsection (1) of this section. [2024 c 115 s 1.]

**Retroactive application—2024 c 115:** "This act applies both retrospectively and prospectively." [2024 c 115 s 3.]

**Effective date—2024 c 115:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2024." [2024 c 115 s 4.]

**RCW 82.04.770 Deduction of amounts derived from charge collected pursuant to chapter 70A.530 RCW.** In computing the tax due under this chapter, there may be deducted any amounts derived from the pass-through charge collected by a taxpayer pursuant to chapter 70A.530 RCW. [2020 c 138 s 8.]

**Application of RCW 82.32.805 and 82.32.808—2020 c 138:** See note following RCW 70A.530.005.

**RCW 82.04.775 Application of chapter—Amounts received under chapter 70A.535 RCW.** (1) This chapter does not apply to amounts received from the generation, purchase, sale, transfer, or retirement of credits under chapter 70A.535 RCW.

(2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to subsection (1) of this section. [2021 c 317 s 16.]

**Severability—2021 c 317:** See note following RCW 70A.535.005.

**RCW 82.04.777 Application of chapter—Amounts received under chapter 70A.555 RCW.** (1) This chapter does not apply to the receipts of a battery stewardship organization formed under chapter 70A.555 RCW from charges to participating producers under a battery stewardship program as provided in RCW 70A.555.060.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808 and is not subject to an expiration date.

(3) The definitions in RCW 70A.555.010 apply throughout this section unless the context clearly requires otherwise. [2023 c 434 s 22.]

**RCW 82.04.900 Construction—1961 c 15.** RCW 82.04.440 shall have retrospective effect to August 1, 1950, as well as have prospective effect. [1961 c 15 s 82.04.900. Prior: 1951 1st ex.s. c 9 s 15.]