

**Chapter 82.29A RCW
LEASEHOLD EXCISE TAX**

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Reviser's note: Throughout chapter 82.29A RCW the term "this 1976 amendatory act" has been changed to "this chapter, RCW 84.36.451 and 84.40.175." This 1976 amendatory act [1975-'76 2nd ex.s. c 61] also repealed chapter 82.29 RCW, RCW 84.36.450, 84.36.455, and 84.36.460.

RCW 82.29A.010 Legislative findings and recognition. (1)(a) The legislature hereby recognizes that properties of the state of Washington, counties, school districts, and other municipal corporations are exempted by Article 7, section 1 of the state Constitution from property tax obligations, but that private lessees of such public properties receive substantial benefits from governmental services provided by units of government.

(b) The legislature further recognizes that a uniform method of taxation should apply to such leasehold interests in publicly owned property.

(c) The legislature finds that lessees of publicly owned property or community centers are entitled to those same governmental services and does hereby provide for a leasehold excise tax to fairly compensate governmental units for services rendered to such lessees of publicly owned property or community centers. For the purposes of this subsection, "community center" has the same meaning as provided in RCW 84.36.010.

(d) The legislature also finds that eliminating the property tax on property owned exclusively by federally recognized Indian tribes within the state requires that the leasehold excise tax also be applied to leasehold interests on tribally owned property.

(2) The legislature further finds that experience gained by lessors, lessees, and the department of revenue since enactment of the leasehold excise tax under this chapter has shed light on areas in the leasehold excise statutes that need explanation and clarification. The purpose of chapter 220, Laws of 1999 is to make those changes. [2014 c 207 s 2; 2010 c 281 s 2; 1999 c 220 s 1; 1975-'76 2nd ex.s. c 61 s 1.]

Application—2014 c 207: See note following RCW 84.36.010.

Application—2010 c 281: See note following RCW 84.36.010.

RCW 82.29A.020 Definitions. The definitions in this section apply throughout this chapter unless the context requires otherwise.

(1)(a) "Leasehold interest" means an interest in publicly owned, or specified privately owned, real or personal property which exists by virtue of any lease, permit, license, or any other agreement, written or verbal, between the owner of the property and a person who would not be exempt from property taxes if that person owned the property in fee, granting possession and use, to a degree less than fee simple ownership. However, no interest in personal property (excluding land or buildings) which is owned by the United States, whether or not as trustee, or by any foreign government may constitute a leasehold interest hereunder when the right to use such property is granted pursuant to a contract solely for the manufacture or production of articles for sale to the United States or any foreign government. The term "leasehold interest" includes the rights of use or occupancy by others of property which is owned in fee or held in trust by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if the property is listed on or is within a district listed on any federal or state register of historical sites.

(b) The term "leasehold interest" does not include:

(i) Road or utility easements, rights of access, occupancy, or use granted solely for the purpose of removing materials or products purchased from an owner or the lessee of an owner, or rights of access, occupancy, or use granted solely for the purpose of natural energy resource exploration; or

(ii) The preferential use of publicly owned cargo cranes and docks and associated areas used in the loading and discharging of cargo located at a port district marine facility. "Preferential use" means that publicly owned real or personal property is used by a

private party under a written agreement with the public owner, but the public owner or any third party maintains a right to use the property when not being used by the private party.

(2) (a) "Taxable rent" means contract rent as defined in (c) of this subsection in all cases where the lease or agreement has been established or renegotiated through competitive bidding, or negotiated or renegotiated in accordance with statutory requirements regarding the rent payable, or negotiated or renegotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor. With respect to a leasehold interest in privately owned property, "taxable rent" means contract rent. However, after January 1, 1986, with respect to any lease which has been in effect for ten years or more without renegotiation, taxable rent may be established by procedures set forth in (g) of this subsection. All other leasehold interests are subject to the determination of taxable rent under the terms of (g) of this subsection.

(b) For purposes of determining leasehold excise tax on any lands on the Hanford reservation subleased to a private or public entity by the department of ecology, taxable rent includes only the annual cash rental payment made by such entity to the department of ecology as specifically referred to as rent in the sublease agreement between the parties and does not include any other fees, assessments, or charges imposed on or collected by such entity irrespective of whether the private or public entity pays or collects such other fees, assessments, or charges as specified in the sublease agreement.

(c) "Contract rent" means the amount of consideration due as payment for a leasehold interest, including: The total of cash payments made to the lessor or to another party for the benefit of the lessor according to the requirements of the lease or agreement, including any rents paid by a sublessee; expenditures for the protection of the lessor's interest when required by the terms of the lease or agreement; and expenditures for improvements to the property to the extent that such improvements become the property of the lessor. Where the consideration conveyed for the leasehold interest is made in combination with payment for concession or other rights granted by the lessor, only that portion of such payment which represents consideration for the leasehold interest is part of contract rent.

(d) "Contract rent" does not include: (i) Expenditures made by the lessee, which under the terms of the lease or agreement, are to be reimbursed by the lessor to the lessee or expenditures for improvements and protection made pursuant to a lease or an agreement which requires that the use of the improved property be open to the general public and that no profit will inure to the lessee from the lease; (ii) expenditures made by the lessee for the replacement or repair of facilities due to fire or other casualty including payments for insurance to provide reimbursement for losses or payments to a public or private entity for protection of such property from damage or loss or for alterations or additions made necessary by an action of government taken after the date of the execution of the lease or agreement; (iii) improvements added to publicly owned property by a sublessee under an agreement executed prior to January 1, 1976, which have been taxed as personal property of the sublessee prior to January 1, 1976, or improvements made by a sublessee of the same lessee under a similar agreement executed prior to January 1, 1976, and such improvements are taxable to the sublessee as personal property; (iv)

improvements added to publicly owned property if such improvements are being taxed as personal property to any person.

(e) Any prepaid contract rent is considered to have been paid in the year due and not in the year actually paid with respect to prepayment for a period of more than one year. Expenditures for improvements with a useful life of more than one year which are included as part of contract rent must be treated as prepaid contract rent and prorated over the useful life of the improvement or the remaining term of the lease or agreement if the useful life is in excess of the remaining term of the lease or agreement. Rent prepaid prior to January 1, 1976, must be prorated from the date of prepayment.

(f) With respect to a "product lease," the value is that value determined at the time of sale under terms of the lease.

(g) If it is determined by the department of revenue, upon examination of a lessee's accounts or those of a lessor of publicly owned property, that a lessee is occupying or using publicly owned property in such a manner as to create a leasehold interest and that such leasehold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted in this chapter based upon the following criteria: (i) Consideration must be given to rental being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; (ii) consideration must be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(3) "Product lease" as used in this chapter means a lease of property for use in the production of agricultural or marine products, not including the production of cannabis as defined in RCW 69.50.101, to the extent that such lease provides for the contract rent to be paid by the delivery of a stated percentage of the production of such agricultural or marine products to the credit of the lessor or the payment to the lessor of a stated percentage of the proceeds from the sale of such products.

(4) "Renegotiated" means a change in the lease agreement which changes the agreed time of possession, restrictions on use, the rate of the cash rental or of any other consideration payable by the lessee to or for the benefit of the lessor, other than any such change required by the terms of the lease or agreement. In addition "renegotiated" means a continuation of possession by the lessee beyond the date when, under the terms of the lease agreement, the lessee had the right to vacate the premises without any further liability to the lessor.

(5) "City" means any city or town.

(6) "Products" includes natural resource products such as cut or picked evergreen foliage, Cascara bark, wild edible mushrooms, native ornamental trees and shrubs, ore and minerals, natural gas, geothermal water and steam, and forage removed through the grazing of livestock.

(7) "Publicly owned, or specified privately owned, real or personal property" includes real or personal property:

(a) Owned in fee or held in trust by a public entity and exempt from property tax under the laws or Constitution of this state or the Constitution of the United States;

(b) Owned by a federally recognized Indian tribe in the state and exempt from property tax under RCW 84.36.010;

(c) Owned by a nonprofit fair association exempt from property tax under RCW 84.36.480(2), but only with respect to that portion of the fair's property subject to the tax imposed in this chapter pursuant to RCW 84.36.480(2)(b); or

(d) Owned by a community center exempt from property tax under RCW 84.36.010. [2022 c 16 s 164; 2015 3rd sp.s. c 6 s 2004; 2015 3rd sp.s. c 6 s 2003. Prior: 2014 c 207 s 3; 2014 c 140 s 26; 2012 2nd sp.s. c 6 s 501; 1999 c 220 s 2; 1991 c 272 s 23; 1986 c 285 s 1; 1979 ex.s. c 196 s 11; 1975-'76 2nd ex.s. c 61 s 2.]

Reviser's note: Two versions of this section existed prior to the repeal of their respective expiration and effective date sections by 2020 c 272 ss 4 and 5. The language in both versions was identical. For purposes of publication, this section incorporates both 2015 3rd sp.s. c 6 s 2004 and 2015 3rd sp.s. c 6 s 2003.

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

Application—2015 3rd sp.s. c 6 ss 2003, 2005, and 2006: "Sections 2003, 2005, and 2006 of this act apply with respect to taxable rent, as defined in RCW 82.29A.020, payable on or after January 1, 2019." [2015 3rd sp.s. c 6 s 2007.]

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

Application—2014 c 207: See note following RCW 84.36.010.

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

Effective dates—1991 c 272: See RCW 81.108.901.

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

RCW 82.29A.025 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 1717.]

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

RCW 82.29A.030 Tax imposed—Credit—Additional tax imposed. (1) There is levied and collected a leasehold excise tax on the act or privilege of occupying or using publicly owned, or specified privately owned, real or personal property through a leasehold interest on and after January 1, 1976, at a rate of twelve percent of taxable rent.

However, after the computation of the tax a credit is allowed for any tax collected pursuant to RCW 82.29A.040.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. [2015 3rd sp.s. c 6 s 2005; 2010 c 281 s 3; 1983 2nd ex.s. c 3 s 18; 1982 1st ex.s. c 35 s 11; 1975-'76 2nd ex.s. c 61 s 3.]

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

Application—2015 3rd sp.s. c 6 ss 2003, 2005, and 2006: See note following RCW 82.29A.020.

Application—2010 c 281: See note following RCW 84.36.010.

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

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

RCW 82.29A.040 Counties and cities authorized to impose tax—Maximum rate—Credit—Collection. (1) The legislative body of any county or city is hereby authorized to levy and collect a leasehold excise tax on the act or privilege of occupying or using publicly owned, or specified privately owned, real or personal property through a leasehold interest within the territorial limits of such county or city. The tax levied by a county under authority of this section shall not exceed six percent and the tax levied by a city shall not exceed four percent of taxable rent. However, any county ordinance levying such tax shall contain a provision allowing a credit against the county tax for the full amount of any city tax imposed upon the same taxable event.

(2) The department of revenue shall perform the collection of such taxes on behalf of such county or city. [2015 3rd sp.s. c 6 s 2006; 1975-'76 2nd ex.s. c 61 s 4.]

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

Application—2015 3rd sp.s. c 6 ss 2003, 2005, and 2006: See note following RCW 82.29A.020.

RCW 82.29A.050 Payment—Due dates—Collection and remittance—Liability—Reporting. (1) The leasehold excise taxes provided for in RCW 82.29A.030 and 82.29A.040 must be paid by the lessee to the lessor and the lessor must collect such tax and remit the same to the department. The tax must be payable at the same time as payments are due to the lessor for use of the property from which the leasehold interest arises, and in the case of payment of contract rent to a person other than the lessor, at the time of payment. The tax payment must be accompanied by such information as the department may require. In the case of prepaid contract rent the payment may be prorated in

accordance with instructions of the department and the prorated portion of the tax is due, one-half not later than May 31st and the other half not later than November 30th each year.

(2) The lessor receiving taxes payable under the provisions of this chapter must remit the same together with a return provided by the department, to the department of revenue on or before the last day of the month following the month in which the tax is collected. The department may relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event may returns be filed for a period greater than one year. The lessor is fully liable for collection and remittance of the tax. The amount of tax until paid by the lessee to the lessor constitutes a debt from the lessee to the lessor. The tax required by this chapter must be stated separately from contract rent, and if not so separately stated for purposes of determining the tax due from the lessee to the lessor and from the lessor to the department, the contract rent does not include the tax imposed by this chapter. Where a lessee has failed to pay to the lessor the tax imposed by this chapter and the lessor has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the lessee for collection of the tax. However, taxes due where contract rent has not been paid must be reported by the lessor to the department and the lessee alone is liable for payment of the tax to the department.

(3) Each person having a leasehold interest subject to the tax provided for in this chapter arising out of a lease of federally owned or federal trust lands, or property owned by a federally recognized Indian tribe in the state and exempt from tax under RCW 84.36.010, must report and remit the tax due directly to the department of revenue in the same manner and at the same time as the lessor would be required to report and remit the tax if such lessor were a state public entity. [2014 c 207 s 4; 1992 c 206 s 6; 1975-'76 2nd ex.s. c 61 s 5.]

Application—2014 c 207: See note following RCW 84.36.010.

Effective date—1992 c 206: See note following RCW 82.04.170.

RCW 82.29A.055 Payment in lieu of leasehold excise tax—Property owned by Indian tribe. (1) Property owned exclusively by a federally recognized Indian tribe that is exempt from property tax under RCW 84.36.010 is subject to payment in lieu of leasehold excise taxes, if:

(a) The tax exempt property is used exclusively for economic development, as defined in RCW 84.36.010;

(b) There is no taxable leasehold interest in the tax exempt property;

(c) The property is located outside of the tribe's reservation; and

(d) The property is not otherwise exempt from taxation by federal law.

(2) The amount of the payment in lieu of leasehold excise taxes must be determined jointly and in good faith negotiation between the tribe that owns the property and the county and any city in which the property is located. However, the amount may not exceed the leasehold excise tax amount that would otherwise be owed by a taxable leasehold

interest in the property. If the tribe and the county and any city cannot agree to terms on the amount of payment in lieu of taxes, the department may determine the rate, provided that the amount may not exceed the leasehold excise tax amount that would otherwise be owed by a taxable leasehold interest in the property.

(3) Payment must be made by the tribe to the county. The county treasurer must distribute all such money collected solely to the local taxing districts, including cities, in the same proportion that each local taxing district would have shared if a leasehold excise tax had been levied. [2020 c 272 s 2; 2014 c 207 s 8.]

Automatic expiration date and tax preference performance statement exemption—2020 c 272: See note following RCW 84.36.010.

Application—2014 c 207: See note following RCW 84.36.010.

RCW 82.29A.060 Administration—Appraisal appeal—Audits. (1) All administrative provisions in chapters 82.02 and 82.32 RCW are applicable to taxes imposed pursuant to this chapter.

(2) (a) A lessee, or a sublessee in the case where the sublessee is responsible for paying the tax imposed under this chapter, of property used for residential purposes may petition the county board of equalization for a change in appraised value when the department of revenue establishes taxable rent under RCW 82.29A.020(2)(g) based on an appraisal done by the county assessor at the request of the department. The petition must be on forms prescribed or approved by the department of revenue and any petition not conforming to those requirements or not properly completed may not be considered by the board. The petition must be filed with the board within the time period set forth in RCW 84.40.038. A decision of the board of equalization may be appealed by the taxpayer to the board of tax appeals as provided in RCW 84.08.130.

(b) A sublessee, in the case where the sublessee is responsible for paying the tax imposed under this chapter, of property used for residential purposes may petition the department for a change in taxable rent when the department of revenue establishes taxable rent under RCW 82.29A.020(2)(g).

(c) Any change in tax resulting from an appeal under this subsection must be allocated to the lessee or sublessee responsible for paying the tax.

(3) This section does not authorize the issuance of any levy upon any property owned by the public lessor.

(4) In selecting leasehold excise tax returns for audit the department of revenue must give priority to any return an audit of which is specifically requested in writing by the county assessor or treasurer or other chief financial officer of any city or county affected by such return. Notwithstanding the provisions of RCW 82.32.330, findings of fact and determinations of the amount of taxable rent made pursuant to the provisions of this chapter must be open to public inspection at all reasonable times. [2020 c 139 s 36; 1994 c 95 s 1; 1975-'76 2nd ex.s. c 61 s 6.]

Effective date—1994 c 95: "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 23, 1994]." [1994 c 95 s 3.]

RCW 82.29A.070 Disposition of revenue. All moneys received by the department of revenue from taxes levied under provisions of RCW 82.29A.030 shall be transmitted to the state treasurer and deposited in the general fund. [1975-'76 2nd ex.s. c 61 s 7.]

RCW 82.29A.080 Counties and cities to contract with state for administration and collection—Local leasehold excise tax account. The counties and cities shall contract, prior to the effective date of an ordinance imposing a leasehold excise tax, with the department of revenue for administration and collection. The department of revenue shall deduct a percentage amount, as provided by such contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by RCW 82.29A.040, which is collected by the department of revenue, must be remitted to the state treasurer who shall deposit the funds in the local leasehold excise tax account hereby created in the state treasury. Moneys in the local leasehold excise tax account may be spent only for distribution to counties and cities imposing a leasehold excise tax. [2008 c 86 s 401; 2002 c 371 s 925; 1985 c 57 s 84; 1981 2nd ex.s. c 4 s 8; 1975-'76 2nd ex.s. c 61 s 8.]

Severability—Savings—Part headings not law—2008 c 86: See notes following RCW 82.14.030.

Severability—Effective date—2002 c 371: See notes following RCW 9.46.100.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1981 2nd ex.s. c 4: See note following RCW 43.30.325.

RCW 82.29A.090 Distributions to counties and cities. (1) Monthly the state treasurer must make distribution from the local leasehold excise tax account to the counties and cities the amount of tax collected on behalf of each county or city.

(2) Monthly the state treasurer must disburse earnings from the local leasehold excise tax account to the counties or cities proportionate to the amount of tax collected on behalf of each county or city.

(3) The state treasurer shall make the distribution under this section without appropriation. [2021 c 145 s 17; 2002 c 177 s 1; 1981 2nd ex.s. c 4 s 9; 1975-'76 2nd ex.s. c 61 s 9.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.30.325.

RCW 82.29A.100 Distributions by county treasurers. Any moneys received by a county from the leasehold excise tax provided for under RCW 82.29A.040 shall be distributed proportionately by the county treasurer in accordance with RCW 84.56.230 as though such moneys were receipts from regular ad valorem property tax levies within such county: PROVIDED, That no distribution shall be made to the state or any city: AND PROVIDED FURTHER, That the pro rata calculation for proportionate distribution to taxing districts shall not include consideration of any rate(s) of levy by the state or any city. [1975-'76 2nd ex.s. c 61 s 10.]

RCW 82.29A.110 Consistency and uniformity of local leasehold tax with state leasehold tax—Model ordinance. It is the intent of this chapter that any local leasehold excise tax adopted pursuant to this chapter be as consistent and uniform as possible with the state leasehold excise tax. It is further the intent of this chapter that the local leasehold excise tax shall be imposed upon an individual taxable event simultaneously with the imposition of the state leasehold excise tax upon the same taxable event. The department shall, as soon as practicable, and with the assistance of the appropriate associations of county prosecutors and city attorneys, draft a model ordinance. [1975-'76 2nd ex.s. c 61 s 11.]

RCW 82.29A.120 Allowable credits. (1)(a) After computation of the taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040, the following credits are allowed in determining the tax payable:

(i) For lessees and sublessees who would qualify for a property tax exemption under RCW 84.36.381 if the property were privately owned, the tax otherwise due after this credit must be reduced by a percentage equal to the percentage reduction in property tax that would result from the property tax exemption under RCW 84.36.381; and

(ii) A credit of thirty-three percent of the tax otherwise due is allowed with respect to a product lease.

(b)(i) For a leasehold interest in real property owned by a state university, a credit is allowed equal to the amount that the tax under this chapter exceeds the property tax that would apply if the real property were privately owned by the taxpayer.

(ii) The credit under this subsection (1)(b) is available only if the tax parcel that is subject to the leasehold interest has a market value in excess of ten million dollars. If the leasehold interest attaches to two or more parcels, the credit is available if at least one of the tax parcels has a market value in excess of ten million dollars. In either case, the market value must be determined as of January 1st of the year prior to the year for which the credit is claimed.

(iii) For purposes of calculating the credit under this subsection (1)(b):

(A) If a tax parcel does not have current assessed value in accordance with RCW 84.40.020, a market value appraisal performed by a Washington state-certified general real estate appraiser, as defined in RCW 18.140.010, is sufficient to establish the market value. If the underlying real property that is the subject of the leasehold interest consists of a part of one or more tax parcels, this appraisal must

include the market value of the part of the parcel or parcels to which the leasehold interest applies; and

(B) The property tax that would otherwise apply to the real property that is the subject of the leasehold interest is calculated using the existing consolidated levy rate for the property's tax code area.

(iv) The definitions in this subsection apply throughout this subsection (1)(b) unless the context clearly requires otherwise.

(A) "Market value" means the true and fair value of the property as that term is used in RCW 84.40.030, based on the property's highest and best use and determined by any reasonable means approved by the department.

(B) "Real property" has the same meaning as in RCW 84.04.090 and also includes all improvements upon the land the fee of which is still vested in the public owner.

(C) "State university" has the same meaning as "state universities" as provided in RCW 28B.10.016.

(v) The credit provided under this subsection (1)(b) may not be claimed for tax reporting periods beginning on or after January 1, 2032.

(2) No credit under subsection (1)(b) of this section may be claimed or approved on or after January 1, 2032. [2020 c 139 s 37; 2017 3rd sp.s. c 37 s 1302; 2013 c 235 s 3; 1994 c 95 s 2; 1986 c 285 s 2; 1975-'76 2nd ex.s. c 61 s 12.]

Effective date—2020 c 139 s 37: "Section 37 of this act takes effect January 1, 2022." [2020 c 139 s 66.]

Tax preference performance statement—2017 3rd sp.s. c 37 s 1302:

"(1) This section is the tax preference performance statement for the tax preference provided in section 1302, chapter 37, Laws of 2017 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.

(2) The legislature categorizes this tax preference as one intended to reduce structural inefficiencies in the state tax structure, as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to reduce the leasehold excise tax for certain taxpayers where the amount of leasehold excise tax exceeds what would be owed in property taxes if the property was owned by the taxpayer.

(4) To measure the effectiveness of the tax preference provided in section 1302, chapter 37, Laws of 2017 3rd sp. sess. in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must determine the amount of leasehold excise tax paid by taxpayers claiming the credit under section 1302, chapter 37, Laws of 2017 3rd sp. sess. in comparison to the amount of leasehold excise taxes or property taxes paid by a sample of taxpayers occupying property geographically proximate to taxpayers claiming the credit under section 1302, chapter 37, Laws of 2017 3rd sp. sess. The amount of leasehold excise tax or property tax must be expressed in dollars per thousand dollars of assessed value and any other way the joint legislative audit and review committee deems necessary to clearly convey the data.

(5) (a) The information provided by taxpayers to the department of revenue and publicly available property tax data is intended to provide the informational basis for the evaluation under subsection (4) of this section.

(b) In addition to the data source described under (a) of this subsection, 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.

(6) The amount of credit reported by a taxpayer to the department is not confidential tax information under RCW 82.32.330 and is subject to disclosure." [2017 3rd sp.s. c 37 s 1301.]

Effective date—2017 3rd sp.s. c 37 ss 1301 and 1302: "Sections 1301 and 1302 of this act take effect January 1, 2022." [2017 3rd sp.s. c 37 s 1408.]

Effective date—1994 c 95: See note following RCW 82.29A.060.

RCW 82.29A.130 Exemptions—Certain property. (Effective until January 1, 2034.) The following leasehold interests are exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility that is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions. However, this exemption does not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. However, this exemption applies only where it is determined that contract rent paid is greater than or equal to 90

percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(g).

(8) All leasehold interests for which annual taxable rent is less than \$250 per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor are deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than 30 days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee are deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest is deemed to give use or possession for a period of less than 30 days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for persons with disabilities of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 must be imposed and must be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over 1,000,000, that has a seating capacity of over 40,000, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in RCW 36.102.010, that is constructed on or after January 1, 1998. For the purposes of this

subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

(16) All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW.

(17) All leasehold interests in property that is: (a) Owned by the United States government or a municipal corporation; (b) listed on any federal or state register of historical sites; and (c) wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(18) All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for 100 percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over 17,000 reserved and general admission seats and is in a county that had a population of over 350,000, but less than 425,000 when the amphitheater first opened to the public.

For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

(19) All leasehold interests in real property used for the placement of military housing meeting the requirements of RCW 84.36.665.

(20) All leasehold interests in facilities owned or used by a community college or technical college, which leasehold interest provides:

- (a) Food services for students, faculty, and staff;
- (b) The operation of a bookstore on campus; or
- (c) Maintenance, operational, or administrative services to the community college or technical college.

(21)(a) All leasehold interests in the public or entertainment areas of an arena if it:

- (i) Has a seating capacity of more than 2,000;
- (ii) Is located on city-owned land; and
- (iii) Is owned by a city with a population over 200,000 within a county with a population of less than 1,500,000.

(b) For the purposes of this subsection (21), "public or entertainment areas" has the same meaning as provided in subsection (18) of this section.

(22) All leasehold interests in facilities owned by the state parks and recreation commission that are listed on the national register of historic places or the Washington heritage register.

(23)(a) All leasehold interests in the public or entertainment areas of an arena if:

(i) The arena has a seating capacity of more than 4,000;
(ii) The arena is located on city-owned land;
(iii) The arena is located within a city with a population over 100,000; and

(iv) Private entities were responsible for 100 percent of the cost of constructing improvements to the arena, which were not reimbursed by the public owner.

(b) For the purposes of this subsection (23), "public or entertainment areas" has the same meaning as provided in subsection (18) of this section, except that it also includes office areas used predominately by the lessee.

(c) A taxpayer claiming an exemption under this subsection (23) must file a complete annual tax performance report as provided in RCW 82.32.534.

(d) This subsection (23) does not apply to leasehold interests on or after October 1, 2033. [2023 c 343 s 2; 2022 c 147 s 1; 2019 c 335 s 1; 2017 3rd sp.s. c 37 s 1303. Prior: 2008 c 194 s 1; 2008 c 84 s 2; 2007 c 90 s 1; prior: 2005 c 514 s 601; 2005 c 170 s 1; 1999 c 165 s 21; 1997 c 220 s 202 (Referendum Bill No. 48, approved June 17, 1997); 1995 3rd sp.s. c 1 s 307; 1995 c 138 s 1; 1992 c 123 s 2; 1975-'76 2nd ex.s. c 61 s 13.]

Tax preference performance statement—2023 c 343 s 2: "(1) This section is the tax preference performance statement for the tax preference contained in section 2(23), chapter 343, Laws of 2023. 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.

(a) The legislature categorizes the tax preference contained in section 2(23), chapter 343, Laws of 2023 as one intended to induce certain designated behavior by taxpayers and provide tax parity, as indicated in RCW 82.32.808(2) (a) and (f).

(b) For the tax preference evaluation under subsection (2) of this section, the legislature's specific public policy objective is to provide tax parity resulting in leasehold excise tax relief for large arena facilities used for professional sports with the expectation that the operational entities overseeing operations at these facilities will provide substantial economic benefits to their specific region with a focus on: Providing employment opportunities for women and minority-owned businesses; fostering equity and social justice with an emphasis on arena-impacted communities; providing general community resource support; and ensuring quality access to the facilities for people across a range of income levels.

(c) For the tax preference evaluation under subsection (3) of this section, the legislature's specific public policy objectives are to provide tax parity resulting in leasehold excise tax relief with the expectation that employees employed at the facilities receive competitive wages and benefits and the facilities advance and promote diverse and inclusive voices, experiences, perspectives, and employment opportunities.

(2) To measure the effectiveness of the tax preference identified in section 2(23), chapter 343, Laws of 2023, except as provided in subsection (3) of this section, the joint legislative audit and review committee must evaluate the following:

(a) State and local fiscal impacts;

(b) To the extent data is available from the operating entity, the number of employment positions and wages at the facility for all employers, the degree to which employment positions at the facility have been filled by people residing in economically distressed regions of the county in which the facility is located, and the race and ethnicity of the employees. The evaluation must include a comparison of annual average wages at the facility and annual county average wages as published by the employment security department as part of its covered employment data;

(c) The extent to which the operational entity provides opportunities for patrons of all income levels to enjoy programming by offering seating at a range of price points that are equitably distributed throughout the facility; and

(d) The extent to which the operational entity generally contributes resources to: Organizations that serve the region; the communities surrounding the facility; and programs and services for youth, arts, music, and culture.

(3) To measure the effectiveness of the tax preference in section 2(23), chapter 343, Laws of 2023 for arenas with a seating capacity of 17,000 or less, the joint legislative audit and review committee must evaluate the following to the extent that data is available from the operating entity or public owner of the arena:

(a) State and local fiscal impacts;

(b) The number of employment positions and wages at the facility for all employers operating at the facility. The evaluation must include a comparison of annual average wages at the facility and annual county average wages as published by the employment security department as part of its covered employment data;

(c) The financial stability of the facility through an examination of revenues and expenditures specific to the facility;

(d) The types of programming and events scheduled at the facility; and

(e) The economic impact of the facility in the county in which the facility is located.

(4) In order to obtain the data necessary to perform the reviews in subsections (2) and (3) of this section, the department of revenue must provide tax-related data needed for the joint legislative audit and review committee analysis, including the annual tax performance reports provided pursuant to RCW 82.32.534. 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 and the legislative auditor, or his or her designee, may contact operational entities after October 1, 2023, to establish appropriate documentation to be provided by the operational entities to the joint legislative audit and review committee to facilitate its review of the tax preferences identified in chapter 343, Laws of 2023.

(5) For the purpose of this section, "operational entity" means a limited liability company or any other public or private legal entity that is primarily responsible for the management and operation of a stadium or arena facility." [2023 c 343 s 1.]

Expiration date—2023 c 343 s 2: "Section 2 of this act expires January 1, 2034." [2023 c 343 s 4.]

Effective date—2023 c 343 ss 1 and 2: "Sections 1 and 2 of this act take effect October 1, 2023." [2023 c 343 s 3.]

Tax preference performance statement—2022 c 147 s 1: "(1) This section is the tax preference performance statement for the tax preferences contained in section 1, chapter 147, 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 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 contributions to historically significant places listed on the national register of historic places or the Washington heritage register.

(4) If a review finds that the statewide amount of contributions made by lessees of state parks and recreation commission-owned historical sites for the purposes of maintaining or improving such sites has increased, 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." [2022 c 147 s 2.]

Expiration date—2022 c 147 s 1: "Section 1 of this act expires January 1, 2034." [2022 c 147 s 3.]

Effective date—2022 c 147: "This act takes effect January 1, 2023." [2022 c 147 s 4.]

Automatic expiration date and tax preference performance statement exemption—2019 c 335: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2019 c 335 s 2.]

Effective date—2019 c 335: "This act takes effect January 1, 2020." [2019 c 335 s 3.]

Tax preference performance statement and expiration—2017 3rd sp.s. c 37 s 1303: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 1303 of this act." [2017 3rd sp.s. c 37 s 1304.]

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.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law—Effective date—1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Effective date—1995 c 138: "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 [April 27, 1995]." [1995 c 138 s 2.]

RCW 82.29A.130 Exemptions—Certain property. (Effective January 1, 2034.) The following leasehold interests are exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility that is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions. However, this exemption does not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. However, this exemption applies only where it is determined that contract rent paid is greater than or equal to ninety percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(g).

(8) All leasehold interests for which annual taxable rent is less than two hundred fifty dollars per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor are deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than thirty days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee are deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest is deemed to give use or possession for a period of less than thirty days solely by

virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for persons with disabilities of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 must be imposed and must be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over one million, that has a seating capacity of over forty thousand, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in RCW 36.102.010, that is constructed on or after January 1, 1998. For the purposes of this subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

(16) All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW.

(17) All leasehold interests in property that is: (a) Owned by the United States government or a municipal corporation; (b) listed on any federal or state register of historical sites; and (c) wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(18) All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee

is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission seats and is in a county that had a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand when the amphitheater first opened to the public.

For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

(19) All leasehold interests in real property used for the placement of military housing meeting the requirements of RCW 84.36.665.

(20) All leasehold interests in facilities owned or used by a community college or technical college, which leasehold interest provides:

- (a) Food services for students, faculty, and staff;
- (b) The operation of a bookstore on campus; or
- (c) Maintenance, operational, or administrative services to the community college or technical college.

(21)(a) All leasehold interests in the public or entertainment areas of an arena if it:

- (i) Has a seating capacity of more than two thousand;
- (ii) Is located on city-owned land; and
- (iii) Is owned by a city with a population over two hundred thousand within a county with a population of less than one million five hundred thousand.

(b) For the purposes of this subsection (21), "public or entertainment areas" has the same meaning as provided in subsection (18) of this section. [2019 c 335 s 1; 2017 3rd sp.s. c 37 s 1303. Prior: 2008 c 194 s 1; 2008 c 84 s 2; 2007 c 90 s 1; prior: 2005 c 514 s 601; 2005 c 170 s 1; 1999 c 165 s 21; 1997 c 220 s 202 (Referendum Bill No. 48, approved June 17, 1997); 1995 3rd sp.s. c 1 s 307; 1995 c 138 s 1; 1992 c 123 s 2; 1975-'76 2nd ex.s. c 61 s 13.]

Automatic expiration date and tax preference performance statement exemption—2019 c 335: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2019 c 335 s 2.]

Effective date—2019 c 335: "This act takes effect January 1, 2020." [2019 c 335 s 3.]

Tax preference performance statement and expiration—2017 3rd sp.s. c 37 s 1303: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to section 1303 of this act." [2017 3rd sp.s. c 37 s 1304.]

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.

Referendum—Other legislation limited—Legislators' personal intent not indicated—Reimbursements for election—Voters' pamphlet, election requirements—1997 c 220: See RCW 36.102.800 through 36.102.803.

Part headings not law—Effective date—1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Effective date—1995 c 138: "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 [April 27, 1995]." [1995 c 138 s 2.]

RCW 82.29A.132 Exemptions—Operation of state route No. 16. All leasehold interests in the state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW are exempt from tax under this chapter. [1998 c 179 s 6.]

Finding—1998 c 179: See note following RCW 35.21.718.

RCW 82.29A.134 Exemptions—Sales/leasebacks by regional transit authorities. All leasehold interests in property of a regional transit authority or public corporation created under RCW 81.112.320 under an agreement under RCW 81.112.300 are exempt from tax under this chapter. [2000 2nd sp.s. c 4 s 25.]

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

RCW 82.29A.135 Exemptions—Property used for the operation of an anaerobic digester. (1) For the purposes of this section, "anaerobic digester" has the same meaning as provided in RCW 82.08.900.

(2) All leasehold interests in buildings, machinery, equipment, and other personal property which are used primarily for the operation of an anaerobic digester, the land upon which this property is located, and land that is reasonably necessary in the operation of an anaerobic digester are exempt from leasehold taxes for a period of six years from the date on which the facility or the addition to the existing facility becomes operational.

(3) Claims for exemptions authorized by this section must be filed with the department of revenue on forms prescribed by the department of revenue and furnished by the department of revenue. Once filed, the exemption is valid for six assessment years following the date on which the facility or the addition to the existing facility becomes operational and may not be renewed. The department of revenue must verify and approve claims as the department of revenue determines

to be justified and in accordance with this section. No claims may be filed after December 31, 2024.

(4) The department of revenue may promulgate such rules, pursuant to chapter 34.05 RCW, as are necessary to properly administer this section. [2018 c 164 s 9; 2010 1st sp.s. c 11 s 6; 2008 c 268 s 2. Prior: 2003 c 339 s 10; 2003 c 261 s 10; 1985 c 371 s 3; 1980 c 157 s 2.]

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

Effective date—2008 c 268: See note following RCW 84.36.635.

Effective dates—2003 c 339: See note following RCW 84.36.640.

Effective dates—2003 c 261: See note following RCW 84.36.635.

RCW 82.29A.136 Exemptions—Certain residential and recreational lots. All leasehold interests consisting of three thousand or more residential and recreational lots that are or may be subleased for residential and recreational purposes are exempt from tax under this chapter. [2001 c 26 s 1.]

Effective date—2001 c 26 s 1: "Section 1 of this act takes effect January 1, 2002." [2001 c 26 s 6.]

RCW 82.29A.137 Exemptions—Certain leasehold interests related to the manufacture of superefficient airplanes. (*Expires July 1, 2040.*) (1) All leasehold interests in port district facilities exempt from tax under RCW 82.08.980 or 82.12.980 and used by a manufacturer engaged in the manufacturing of superefficient airplanes, as defined in RCW 82.32.550, are exempt from tax under this chapter. A person claiming the credit under RCW 82.04.4463 is not eligible for the exemption under this section.

(2) In addition to all other requirements under this title, a person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) This section expires July 1, 2040. [2017 c 135 s 35; 2013 3rd sp.s. c 2 s 13; 2010 c 114 s 134; 2003 2nd sp.s. c 1 s 13.]

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.

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

RCW 82.29A.138 Exemptions—Certain amateur radio repeaters. (1)

All leasehold interests in property used for the placement of amateur radio repeaters that are made available for use by, or are used in support of, a public agency in the event of an emergency or potential emergency to which the agency is, or may be, a qualified responder, are exempt from tax under this chapter.

(2) For purposes of this section, "amateur radio repeater" means an electronic device that receives a weak or low-level amateur radio signal and retransmits it at a higher level or higher power, so that the signal can cover longer distances without degradation, and is used by amateur radio operators possessing a valid license issued by the federal communications commission. [2007 c 21 s 1.]

RCW 82.29A.139 Exemptions—Leasehold interests in public lands used for affordable housing. (1) All leasehold interests in public lands are exempt from tax under this chapter, for the duration of the lease, when used for the placement of affordable housing under the following conditions:

(a) A lessee must commit to renting or selling 100 percent of the units as permanently affordable for low-income and moderate-income households; and

(b) The term of the lease is at least 20 years.

(2) The department of natural resources may adopt rules, pursuant to chapter 34.05 RCW, as are necessary to properly administer this section.

(3) Affordable housing for low-income households must be prioritized by the department of natural resources and the lessee when receiving the exemption under this section.

(4) For purposes of this section:

(a) "Affordable housing" has the same meaning as in RCW 84.14.010.

(b) "Low-income household" has the same meaning as in RCW 84.14.010.

(c) "Moderate-income household" has the same meaning as in RCW 84.14.010.

(d) "Public lands" has the same meaning as in RCW 79.02.010. [2024 c 59 s 1.]

Tax preference performance statement—2024 c 59 s 1: "(1) This section is the tax preference performance statement for the tax preference contained in section 1, chapter 59, 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 legislature categorizes these tax preferences as ones 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 incentivize the placement of affordable housing on public lands.

(4) If a review by the joint legislative audit and review committee finds that the number of affordable housing units placed on public lands increased following the enactment of this tax preference, 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 number of new leasehold agreements on public lands for the purposes of affordable housing." [2024 c 59 s 2.]

Automatic expiration date exemption—2024 c 59: "RCW 82.32.805 does not apply to this act." [2024 c 59 s 3.]

RCW 82.29A.140 Rules and regulations. The department of revenue of the state of Washington shall make such rules and regulations consistent with chapter 34.05 RCW and the provisions of this chapter, RCW 84.36.451 and 84.40.175 as shall be necessary to permit its effective administration including procedures for collection and remittance of taxes imposed by this chapter, and for intervention by the cities and counties levying under RCW 82.29A.040, in proceedings involving such levies and taxes collected pursuant thereto. [1975-'76 2nd ex.s. c 61 s 16.]

RCW 82.29A.160 Improvements not defined as contract rent taxable under Title 84 RCW. Notwithstanding any other provision of this chapter, RCW 84.36.451 and 84.40.175, improvements owned or being acquired by contract purchase or otherwise by any lessee or sublessee which are not defined as contract rent shall be taxable to such lessee or sublessee under Title 84 RCW at their full true and fair value without any deduction for interests held by the lessor or others. [1986 c 251 s 1; 1975-'76 2nd ex.s. c 61 s 18.]