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**SUBSTITUTE SENATE BILL 6540**

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**State of Washington 57th Legislature**

**2002 Regular Session**

**By Senate Committee on Ways & Means (originally sponsored by Senators Regala and Poulsen; by request of Department of Revenue)**

READ FIRST TIME 03/01/2002.

1 AN ACT Relating to simplifying the administration of taxes in  
2 Titles 82 and 84 RCW by revising terminology and procedures; amending  
3 RCW 82.04.010, 82.04.050, 82.04.260, 82.04.272, 82.04.290, 82.04.290,  
4 82.04.470, 82.08.010, 82.08.0266, 82.08.02665, 82.08.02745, 82.08.0283,  
5 82.08.820, 82.08.890, 82.12.02565, 82.12.010, 82.12.02567, 82.12.0277,  
6 82.12.045, 82.14.0485, 82.14.0494, 82.14.370, 82.14.390, 82.16.010,  
7 82.18.060, 82.32.050, 82.32.060, 82.45.032, 84.04.090, and 84.36.383;  
8 amending 2001 c 188 s 1 (uncodified); creating a new section; providing  
9 an effective date; and providing an expiration date.

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

11 **Sec. 1.** RCW 82.04.010 and 1996 c 93 s 4 are each amended to read  
12 as follows:

13 (~~Unless the context clearly requires otherwise,~~) The definitions  
14 (~~set forth in the sections preceding RCW 82.04.220~~) in this chapter  
15 apply throughout this chapter, unless the context clearly requires  
16 otherwise or unless otherwise provided.

17 **Sec. 2.** RCW 82.04.050 and 2000 2nd sp.s. c 4 s 23 are each amended  
18 to read as follows:

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

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

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

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

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

28 (e) Purchases for the purpose of providing the property to  
29 consumers as part of competitive telephone service, as defined in RCW  
30 82.04.065. The term shall include every sale of tangible personal  
31 property which is used or consumed or to be used or consumed in the  
32 performance of any activity classified as a "sale at retail" or "retail  
33 sale" even though such property is resold or utilized as provided in  
34 (a), (b), (c), (d), or (e) of this subsection following such use. The  
35 term also means every sale of tangible personal property to persons  
36 engaged in any business which is taxable under RCW 82.04.280 (2) and  
37 (7) and 82.04.290.

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

4 (a) The installing, repairing, cleaning, altering, imprinting, or  
5 improving of tangible personal property of or for consumers, including  
6 charges made for the mere use of facilities in respect thereto(~~(, but~~  
7 ~~excluding~~)). The provision of linen and uniform supply services, as  
8 that phrase is defined in chapter 82.08 RCW, is deemed to be made at  
9 the place of delivery of the customer. The term "retail sale" excludes  
10 charges made for the use of coin-operated laundry facilities when such  
11 facilities are situated in an apartment house, rooming house, or mobile  
12 home park for the exclusive use of the tenants thereof, and also  
13 (~~excluding~~) excludes sales of laundry service to nonprofit health  
14 care facilities, and (~~excluding~~) excludes services rendered in  
15 respect to live animals, birds, and insects;

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

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

32 (d) The sale of or charge made for labor and services rendered in  
33 respect to the cleaning, fumigating, razing or moving of existing  
34 buildings or structures, but shall not include the charge made for  
35 janitorial services; and for purposes of this section the term  
36 "janitorial services" shall mean those cleaning and caretaking services  
37 ordinarily performed by commercial janitor service businesses  
38 including, but not limited to, wall and window washing, floor cleaning  
39 and waxing, and the cleaning in place of rugs, drapes and upholstery.

1 The term "janitorial services" does not include painting, papering,  
2 repairing, furnace or septic tank cleaning, snow removal or  
3 sandblasting;

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

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

15 (g) The sale of or charge made for tangible personal property,  
16 labor and services to persons taxable under (a), (b), (c), (d), (e),  
17 and (f) of this subsection when such sales or charges are for property,  
18 labor and services which are used or consumed in whole or in part by  
19 such persons in the performance of any activity defined as a "sale at  
20 retail" or "retail sale" even though such property, labor and services  
21 may be resold after such use or consumption. Nothing contained in this  
22 subsection shall be construed to modify subsection (1) of this section  
23 and nothing contained in subsection (1) of this section shall be  
24 construed to modify this subsection.

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

30 (a) Amusement and recreation services including but not limited to  
31 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips  
32 for sightseeing purposes, and others, when provided to consumers;

33 (b) Abstract, title insurance, and escrow services;

34 (c) Credit bureau services;

35 (d) Automobile parking and storage garage services;

36 (e) Landscape maintenance and horticultural services but excluding  
37 (i) horticultural services provided to farmers and (ii) pruning,  
38 trimming, repairing, removing, and clearing of trees and brush near  
39 electric transmission or distribution lines or equipment, if performed

1 by or at the direction of an electric utility. "Horticultural services  
2 provided to farmers" include but are not limited to: Soil preparation  
3 of land currently being used to raise plant crops such as plowing, weed  
4 control, or stump removal before planting; cultivation activities, such  
5 as planting, thinning, weeding, pruning, or spraying; and harvesting  
6 activities, such as threshing grain or legumes, mowing and baling hay,  
7 or picking fruit;

8 (f) Service charges associated with tickets to professional  
9 sporting events; and

10 (g) The following personal services: Physical fitness services,  
11 tanning salon services, tattoo parlor services, steam bath services,  
12 turkish bath services, escort services, and dating services.

13 (4) The term shall also include the renting or leasing of tangible  
14 personal property to consumers and the rental of equipment with an  
15 operator.

16 (5) The term shall also include the providing of telephone service,  
17 as defined in RCW 82.04.065, to consumers.

18 (6) The term shall also include the sale of canned software other  
19 than a sale to a person who presents a resale certificate under RCW  
20 82.04.470, regardless of the method of delivery to the end user, but  
21 shall not include custom software or the customization of canned  
22 software.

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

31 (8) The term shall also not include sales of chemical sprays or  
32 washes to persons for the purpose of postharvest treatment of fruit for  
33 the prevention of scald, fungus, mold, or decay, nor shall it include  
34 sales of feed, seed, seedlings, fertilizer, agents for enhanced  
35 pollination including insects such as bees, and spray materials to:

36 (a) Persons who participate in the federal conservation reserve  
37 program, the environmental quality incentives program, the wetlands  
38 reserve program, and the wildlife habitat incentives program, or their  
39 successors administered by the United States department of agriculture;

1 (b) farmers for the purpose of producing for sale any agricultural  
2 product; and (c) farmers acting under cooperative habitat development  
3 or access contracts with an organization exempt from federal income tax  
4 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of  
5 fish and wildlife to produce or improve wildlife habitat on land that  
6 the farmer owns or leases.

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

23 (10) Until July 1, 2003, the term shall not include the sale of or  
24 charge made for labor and services rendered for environmental remedial  
25 action as defined in RCW 82.04.2635(2).

26 **Sec. 3.** RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each amended  
27 to read as follows:

28 (1) Upon every person engaging within this state in the business of  
29 manufacturing:

30 (a) Wheat into flour, barley into pearl barley, soybeans into  
31 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
32 or sunflower seeds into sunflower oil; as to such persons the amount of  
33 tax with respect to such business shall be equal to the value of the  
34 flour, pearl barley, oil, canola meal, or canola byproduct  
35 manufactured, multiplied by the rate of 0.138 percent;

36 (b) Seafood products which remain in a raw, raw frozen, or raw  
37 salted state at the completion of the manufacturing by that person; as  
38 to such persons the amount of tax with respect to such business shall

1 be equal to the value of the products manufactured, multiplied by the  
2 rate of 0.138 percent;

3 (c) By canning, preserving, freezing, processing, or dehydrating  
4 fresh fruits and vegetables, or selling at wholesale fresh fruits and  
5 vegetables canned, preserved, frozen, processed, or dehydrated by the  
6 seller and sold to purchasers who transport in the ordinary course of  
7 business the goods out of this state; as to such persons the amount of  
8 tax with respect to such business shall be equal to the value of the  
9 products canned, preserved, frozen, processed, or dehydrated multiplied  
10 by the rate of 0.138 percent. As proof of sale to a person who  
11 transports in the ordinary course of business goods out of this state,  
12 the seller shall annually provide a statement in a form prescribed by  
13 the department and retain the statement as a business record; and

14 (d) Dairy products that as of September 20, 2001, are identified in  
15 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts  
16 from the manufacturing of the dairy products such as whey and casein;  
17 or selling the same to purchasers who transport in the ordinary course  
18 of business the goods out of state; as to such persons the tax imposed  
19 shall be equal to the value of the products manufactured or the gross  
20 proceeds derived from such sales multiplied by the rate of 0.138  
21 percent. As proof of sale to a person who transports in the ordinary  
22 course of business goods out of this state, the seller shall annually  
23 provide a statement in a form prescribed by the department and retain  
24 the statement as a business record.

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

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

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

1 (5) Upon every person engaging within this state in the business of  
2 making sales, at retail or wholesale, of nuclear fuel assemblies  
3 manufactured by that person, as to such persons the amount of tax with  
4 respect to such business shall be equal to the gross proceeds of sales  
5 of the assemblies multiplied by the rate of 0.275 percent.

6 (6) Upon every person engaging within this state in the business of  
7 manufacturing nuclear fuel assemblies, as to such persons the amount of  
8 tax with respect to such business shall be equal to the value of the  
9 products manufactured multiplied by the rate of 0.275 percent.

10 (7) Upon every person engaging within this state in the business of  
11 acting as a travel agent or tour operator; as to such persons the  
12 amount of the tax with respect to such activities shall be equal to the  
13 gross income derived from such activities multiplied by the rate of  
14 0.275 percent.

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

22 (9) Upon every person engaging within this state in the business of  
23 stevedoring and associated activities pertinent to the movement of  
24 goods and commodities in waterborne interstate or foreign commerce; as  
25 to such persons the amount of tax with respect to such business shall  
26 be equal to the gross proceeds derived from such activities multiplied  
27 by the rate of 0.275 percent. Persons subject to taxation under this  
28 subsection shall be exempt from payment of taxes imposed by chapter  
29 82.16 RCW for that portion of their business subject to taxation under  
30 this subsection. Stevedoring and associated activities pertinent to  
31 the conduct of goods and commodities in waterborne interstate or  
32 foreign commerce are defined as all activities of a labor, service or  
33 transportation nature whereby cargo may be loaded or unloaded to or  
34 from vessels or barges, passing over, onto or under a wharf, pier, or  
35 similar structure; cargo may be moved to a warehouse or similar holding  
36 or storage yard or area to await further movement in import or export  
37 or may move to a consolidation freight station and be stuffed,  
38 unstuffed, containerized, separated or otherwise segregated or  
39 aggregated for delivery or loaded on any mode of transportation for

1 delivery to its consignee. Specific activities included in this  
2 definition are: Wharfage, handling, loading, unloading, moving of  
3 cargo to a convenient place of delivery to the consignee or a  
4 convenient place for further movement to export mode; documentation  
5 services in connection with the receipt, delivery, checking, care,  
6 custody and control of cargo required in the transfer of cargo;  
7 imported automobile handling prior to delivery to consignee; terminal  
8 stevedoring and incidental vessel services, including but not limited  
9 to plugging and unplugging refrigerator service to containers,  
10 trailers, and other refrigerated cargo receptacles, and securing ship  
11 hatch covers.

12 (10) Upon every person engaging within this state in the business  
13 of disposing of low-level waste, as defined in RCW 43.145.010; as to  
14 such persons the amount of the tax with respect to such business shall  
15 be equal to the gross income of the business, excluding any fees  
16 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
17 percent.

18 If the gross income of the taxpayer is attributable to activities  
19 both within and without this state, the gross income attributable to  
20 this state shall be determined in accordance with the methods of  
21 apportionment required under RCW 82.04.460.

22 (11) Upon every person engaging within this state as an insurance  
23 agent, insurance broker, or insurance solicitor licensed under chapter  
24 48.17 RCW; as to such persons, the amount of the tax with respect to  
25 such licensed activities shall be equal to the gross income of such  
26 business multiplied by the rate of 0.484 percent.

27 (12) Upon every person engaging within this state in business as a  
28 hospital, as defined in chapter 70.41 RCW, that is operated as a  
29 nonprofit corporation or by the state or any of its political  
30 subdivisions, as to such persons, the amount of tax with respect to  
31 such activities shall be equal to the gross income of the business  
32 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
33 percent thereafter. The moneys collected under this subsection shall  
34 be deposited in the health services account created under RCW  
35 43.72.900.

36 **Sec. 4.** RCW 82.04.272 and 1998 c 343 s 1 are each amended to read  
37 as follows:

1 (1) Upon every person engaging within this state in the business of  
2 warehousing and reselling prescription drugs; as to such persons, the  
3 amount of the tax shall be equal to the gross income of the business  
4 multiplied by the rate of 0.138 percent.

5 (2) For the purposes of this section:

6 (a) "Prescription drug" has the same meaning as that term is given  
7 in RCW 82.08.0281; and

8 (b) "Warehousing and reselling prescription drugs" means the buying  
9 of prescription drugs from a manufacturer or another wholesaler,  
10 warehousing in this state, and then reselling of the drugs to persons  
11 selling at retail or to hospitals, clinics, health care providers, or  
12 other providers of health care services, by a wholesaler or retailer  
13 who is registered with the federal drug enforcement administration and  
14 licensed by the state board of pharmacy.

15 **Sec. 5.** RCW 82.04.290 and 2001 1st sp.s. c 9 s 5 are each amended  
16 to read as follows:

17 (1) Upon every person engaging within this state in the business of  
18 providing international investment management services, as to such  
19 persons, the amount of tax with respect to such business shall be equal  
20 to the gross income or gross proceeds of sales of the business  
21 multiplied by a rate of 0.275 percent.

22 (2) Upon every person engaging within this state in any business  
23 activity other than or in addition to (~~those enumerated in RCW~~  
24 ~~82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,~~  
25 ~~82.04.298, 82.04.2905, 82.04.280, 82.04.2635, 82.04.2907, and~~  
26 ~~82.04.272,~~) an activity taxed explicitly under another section in this  
27 chapter and subsection (1) of this section; as to such persons the  
28 amount of tax on account of such activities shall be equal to the gross  
29 income of the business multiplied by the rate of 1.5 percent.

30 (3) This section includes, among others, and without limiting the  
31 scope hereof (whether or not title to materials used in the performance  
32 of such business passes to another by accession, confusion or other  
33 than by outright sale), persons engaged in the business of rendering  
34 any type of service which does not constitute a "sale at retail" or a  
35 "sale at wholesale." The value of advertising, demonstration, and  
36 promotional supplies and materials furnished to an agent by his  
37 principal or supplier to be used for informational, educational and  
38 promotional purposes shall not be considered a part of the agent's

1 remuneration or commission and shall not be subject to taxation under  
2 this section.

3 **Sec. 6.** RCW 82.04.290 and 2001 1st sp.s. c 9 s 6 are each amended  
4 to read as follows:

5 (1) Upon every person engaging within this state in the business of  
6 providing international investment management services, as to such  
7 persons, the amount of tax with respect to such business shall be equal  
8 to the gross income or gross proceeds of sales of the business  
9 multiplied by a rate of 0.275 percent.

10 (2) Upon every person engaging within this state in any business  
11 activity other than or in addition to (~~those enumerated in RCW~~  
12 ~~82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,~~  
13 ~~82.04.298, 82.04.2905, 82.04.280, 82.04.2907, and 82.04.272,~~) an  
14 activity taxed explicitly under another section in this chapter and  
15 subsection (1) of this section; as to such persons the amount of tax on  
16 account of such activities shall be equal to the gross income of the  
17 business multiplied by the rate of 1.5 percent.

18 (3) This section includes, among others, and without limiting the  
19 scope hereof (whether or not title to materials used in the performance  
20 of such business passes to another by accession, confusion or other  
21 than by outright sale), persons engaged in the business of rendering  
22 any type of service which does not constitute a "sale at retail" or a  
23 "sale at wholesale." The value of advertising, demonstration, and  
24 promotional supplies and materials furnished to an agent by his  
25 principal or supplier to be used for informational, educational and  
26 promotional purposes shall not be considered a part of the agent's  
27 remuneration or commission and shall not be subject to taxation under  
28 this section.

29 **Sec. 7.** RCW 82.04.470 and 1993 sp.s. c 25 s 701 are each amended  
30 to read as follows:

31 (1) Unless a seller has taken from the buyer a resale certificate,  
32 the burden of proving that a sale of tangible personal property, or of  
33 services, was not a sale at retail shall be upon the person who made  
34 it.

35 (2) If a seller does not receive a resale certificate at the time  
36 of the sale, have a resale certificate on file at the time of the sale,  
37 or obtain a resale certificate from the buyer within a reasonable time

1 after the sale, the seller shall remain liable for the tax as provided  
2 in RCW 82.08.050, unless the seller can demonstrate facts and  
3 circumstances according to rules adopted by the department of revenue  
4 that show the sale was properly made without payment of sales tax.

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

7 (4) The department may provide by rule for suggested forms for  
8 resale certificates (~~(or equivalent documents)~~) containing the  
9 information that will be accepted as resale certificates. The  
10 department shall provide by rule the categories of items or services  
11 that must be specified on resale certificates and the business  
12 classifications that may use a blanket resale certificate.

13 (5) As used in this section, "resale certificate" means  
14 documentation provided by a buyer to a seller stating that the purchase  
15 is for resale in the regular course of business(~~(, or that the buyer is~~  
16 ~~exempt from retail sales tax,)~~) and containing the following  
17 information:

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

19 (b) The uniform business identifier or revenue registration number  
20 of the buyer, if the buyer is required to (~~{be}~~) be registered;

21 (c) The type of business engaged in;

22 (d) The categories of items or services to be purchased for resale  
23 (~~(or that are exempt)~~), unless the buyer is in a business  
24 classification that may present a blanket resale certificate as  
25 provided by the department by rule;

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

27 (f) A statement that the items or services purchased (~~(either:~~  
28 ~~{i})~~) are purchased for resale in the regular course of business(~~(i or~~  
29 ~~ii) are exempt from tax pursuant to statute)~~);

30 (g) A statement that the buyer acknowledges that the buyer is  
31 solely responsible for purchasing within the categories specified on  
32 the certificate and that misuse of the resale (~~(or exemption)~~)  
33 privilege claimed on the certificate subjects the buyer to a penalty of  
34 fifty percent of the tax due, in addition to the tax, interest, and any  
35 other penalties imposed by law;

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

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

39 (j) The name of the seller.

1       **Sec. 8.** RCW 82.08.010 and 1985 c 38 s 3 are each amended to read  
2 as follows:

3       The definitions in chapter 82.04 RCW apply throughout this chapter,  
4 unless the context clearly requires otherwise or unless otherwise  
5 provided. For the purposes of this chapter:

6       (1) "Selling price" means the consideration, whether money,  
7 credits, rights, or other property except trade-in property of like  
8 kind, expressed in the terms of money paid or delivered by a buyer to  
9 a seller without any deduction on account of the cost of tangible  
10 property sold, the cost of materials used, labor costs, interest,  
11 discount, delivery costs, taxes other than taxes imposed under this  
12 chapter if the seller advertises the price as including the tax or that  
13 the seller is paying the tax, or any other expenses whatsoever paid or  
14 accrued and without any deduction on account of losses; but shall not  
15 include the amount of cash discount actually taken by a buyer; and  
16 shall be subject to modification to the extent modification is provided  
17 for in RCW 82.08.080.

18       When tangible personal property is rented or leased under  
19 circumstances that the consideration paid does not represent a  
20 reasonable rental for the use of the articles so rented or leased, the  
21 "selling price" shall be determined as nearly as possible according to  
22 the value of such use at the places of use of similar products of like  
23 quality and character under such rules as the department of revenue may  
24 prescribe;

25       (2) "Seller" means every person, including the state and its  
26 departments and institutions, making sales at retail or retail sales to  
27 a buyer or consumer, whether as agent, broker, or principal, except  
28 "seller" does not mean the state and its departments and institutions  
29 when making sales to the state and its departments and institutions;

30       (3) "Buyer" and "consumer" include, without limiting the scope  
31 hereof, every individual, receiver, assignee, trustee in bankruptcy,  
32 trust, estate, firm, copartnership, joint venture, club, company, joint  
33 stock company, business trust, corporation, association, society, or  
34 any group of individuals acting as a unit, whether mutual, cooperative,  
35 fraternal, nonprofit, or otherwise, municipal corporation, quasi  
36 municipal corporation, and also the state, its departments and  
37 institutions and all political subdivisions thereof, irrespective of  
38 the nature of the activities engaged in or functions performed, and  
39 also the United States or any instrumentality thereof((+)

1       ~~(4) The meaning attributed in chapter 82.04 RCW to the terms "tax~~  
2 ~~year," "taxable year," "person," "company," "sale," "sale at retail,"~~  
3 ~~"retail sale," "sale at wholesale," "wholesale," "business," "engaging~~  
4 ~~in business," "cash discount," "successor," "consumer," "in this state"~~  
5 ~~and "within this state" shall apply equally to the provisions of this~~  
6 ~~chapter)).~~

7       **Sec. 9.** RCW 82.08.0266 and 1999 c 358 s 5 are each amended to read  
8 as follows:

9       The tax levied by RCW 82.08.020 shall not apply to sales to  
10 nonresidents of this state for use outside of this state of watercraft  
11 requiring coast guard registration or registration by the state of  
12 principal use according to the Federal Boating Act of 1958, even though  
13 delivery be made within this state, but only when (1) the watercraft  
14 will not be used within this state for more than forty-five days and  
15 (2) an appropriate exemption certificate supported by identification  
16 ascertaining residence as required by the department (~~(of revenue)~~) and  
17 signed by the (~~(purchaser)~~) buyer or (~~(his)~~) the buyer's agent  
18 establishing the fact that the (~~(purchaser)~~) buyer is a nonresident and  
19 that the watercraft is for use outside of this state, a copy of which  
20 shall be retained by the (~~(dealer)~~) seller.

21       **Sec. 10.** RCW 82.08.02665 and 1999 c 358 s 6 are each amended to  
22 read as follows:

23       The tax levied by RCW 82.08.020 does not apply to sales of vessels  
24 to residents of foreign countries for use outside of this state, even  
25 though delivery is made within this state, but only if (1) the vessel  
26 will not be used within this state for more than forty-five days and  
27 (2) an appropriate exemption certificate supported by identification as  
28 required by the department (~~(of revenue)~~) and signed by the  
29 (~~(purchaser)~~) buyer or the (~~(purchaser's)~~) buyer's agent establishes  
30 the fact that the (~~(purchaser)~~) buyer is a resident of a foreign  
31 country and that the vessel is for use outside of this state. A copy  
32 of the exemption certificate is to be retained by the (~~(dealer)~~)  
33 seller.

34       As used in this section, "vessel" means every watercraft used or  
35 capable of being used as a means of transportation on the water, other  
36 than a seaplane.

1       **Sec. 11.** RCW 82.08.02745 and 1997 c 438 s 1 are each amended to  
2 read as follows:

3       (1) The tax levied by RCW 82.08.020 shall not apply to charges made  
4 for labor and services rendered by any person in respect to the  
5 constructing, repairing, decorating, or improving of new or existing  
6 buildings or other structures used as agricultural employee housing, or  
7 to sales of tangible personal property that becomes an ingredient or  
8 component of the buildings or other structures during the course of the  
9 constructing, repairing, decorating, or improving the buildings or  
10 other structures(~~(, but)~~). The exemption is available only if the  
11 buyer provides the seller with an exemption certificate in a form and  
12 manner prescribed by the department (~~(by rule)~~).

13       (2) The exemption provided in this section for agricultural  
14 employee housing provided to year-round employees of the agricultural  
15 employer, only applies if that housing is built to the current building  
16 code for single-family or multifamily dwellings according to the state  
17 building code, chapter 19.27 RCW.

18       (3) Any agricultural employee housing built under this section  
19 shall be used according to this section for at least five consecutive  
20 years from the date the housing is approved for occupancy, or the full  
21 amount of tax otherwise due shall be immediately due and payable  
22 together with interest, but not penalties, from the date the housing is  
23 approved for occupancy until the date of payment. If at any time  
24 agricultural employee housing that is not located on agricultural land  
25 ceases to be used in the manner specified in subsection (2) of this  
26 section, the full amount of tax otherwise due shall be immediately due  
27 and payable with interest, but not penalties, from the date the housing  
28 ceases to be used as agricultural employee housing until the date of  
29 payment.

30       (4) The exemption provided in this section shall not apply to  
31 housing built for the occupancy of an employer, family members of an  
32 employer, or persons owning stock or shares in a farm partnership or  
33 corporation business.

34       (5) For purposes of this section and RCW 82.12.02685:

35       (a) "Agricultural employee" or "employee" has the same meaning as  
36 given in RCW 19.30.010;

37       (b) "Agricultural employer" or "employer" has the same meaning as  
38 given in RCW 19.30.010; and

1 (c) "Agricultural employee housing" means all facilities provided  
2 by an agricultural employer, housing authority, local government, state  
3 or federal agency, nonprofit community or neighborhood-based  
4 organization that is exempt from income tax under section 501(c) of the  
5 internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-profit  
6 provider of housing for housing agricultural employees on a year-round  
7 or seasonal basis, including bathing, food handling, hand washing,  
8 laundry, and toilet facilities, single-family and multifamily dwelling  
9 units and dormitories, and includes labor camps under RCW ((70.54.110))  
10 70.114A.110. "Agricultural employee housing" does not include housing  
11 regularly provided on a commercial basis to the general public.  
12 "Agricultural employee housing" does not include housing provided by a  
13 housing authority unless at least eighty percent of the occupants are  
14 agricultural employees whose adjusted income is less than fifty percent  
15 of median family income, adjusted for household size, for the county  
16 where the housing is provided.

17 **Sec. 12.** RCW 82.08.0283 and 2001 c 75 s 1 are each amended to read  
18 as follows:

19 (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
20 insulin; prosthetic devices and the components thereof; dental  
21 appliances, devices, restorations, and substitutes, and the components  
22 thereof, including but not limited to full and partial dentures,  
23 crowns, inlays, fillings, braces, and retainers; orthotic devices  
24 prescribed for an individual by a person licensed under chapters 18.22,  
25 18.25, 18.57, or 18.71 RCW, and the components thereof; hearing  
26 instruments dispensed or fitted by a person licensed or certified under  
27 chapter 18.35 RCW, and the components thereof; medicines of mineral,  
28 animal, and botanical origin prescribed, administered, dispensed, or  
29 used in the treatment of an individual by a person licensed under  
30 chapter 18.36A RCW; ostomic items; and ~~((medically prescribed))~~ oxygen,  
31 including, but not limited to, oxygen concentrator systems, oxygen  
32 enricher systems, liquid oxygen systems, ~~((and))~~ gaseous, bottled  
33 oxygen systems, and other like portable systems, to be prescribed for  
34 use by an individual, whether or not purchased by an individual. The  
35 prescription must be by a person licensed under chapter 18.57 or 18.71  
36 RCW for use in the medical treatment of ~~((that))~~ the individual.

37 (2) In addition, the tax levied by RCW 82.08.020 shall not apply to  
38 charges made for labor and services rendered in respect to the

1 repairing, cleaning, altering, or improving of any of the items  
2 exempted under this section.

3 **Sec. 13.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read  
4 as follows:

5 (1) Wholesalers or third-party warehouseers who own or operate  
6 warehouses or grain elevators and retailers who own or operate  
7 distribution centers, and who have paid the tax levied by RCW 82.08.020  
8 on:

9 (a) Material-handling and racking equipment, and labor and services  
10 rendered in respect to installing, repairing, cleaning, altering, or  
11 improving the equipment; or

12 (b) Construction of a warehouse or grain elevator, including  
13 materials, and including service and labor costs,  
14 are eligible for an exemption in the form of a remittance. The amount  
15 of the remittance is computed under subsection (3) of this section and  
16 is based on the state share of sales tax.

17 (2) For purposes of this section and RCW 82.12.820:

18 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

19 (b) "Construction" means the actual construction of a warehouse or  
20 grain elevator that did not exist before the construction began.  
21 "Construction" includes expansion if the expansion adds at least two  
22 hundred thousand square feet of additional space to an existing  
23 warehouse or additional storage capacity of at least one million  
24 bushels to an existing grain elevator. "Construction" does not include  
25 renovation, remodeling, or repair;

26 (c) "Department" means the department of revenue;

27 (d) "Distribution center" means a warehouse that is used  
28 exclusively by a retailer solely for the storage and distribution of  
29 finished goods to retail outlets of the retailer. "Distribution  
30 center" does not include a warehouse at which retail sales occur;

31 (e) "Finished goods" means tangible personal property intended for  
32 sale by a retailer or wholesaler. "Finished goods" does not include  
33 agricultural products stored by wholesalers, third-party warehouses, or  
34 retailers if the storage takes place on the land of the person who  
35 produced the agricultural product. "Finished goods" does not include  
36 ((logs, minerals, petroleum, gas, or other)) extracted products stored  
37 as raw materials or in bulk;

1 (f) "Grain elevator" means a structure used for storage and  
2 handling of grain in bulk;

3 (g) "Material-handling equipment and racking equipment" means  
4 equipment in a warehouse or grain elevator that is primarily used to  
5 handle, store, organize, convey, package, or repackage finished goods.  
6 The term includes tangible personal property with a useful life of one  
7 year or more that becomes an ingredient or component of the equipment,  
8 including repair and replacement parts. The term does not include  
9 equipment in offices, lunchrooms, restrooms, and other like space,  
10 within a warehouse or grain elevator, or equipment used for  
11 nonwarehousing purposes. "Material-handling equipment" includes but is  
12 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
13 place units, cranes, hoists, mechanical arms, and robots; mechanized  
14 systems, including containers that are an integral part of the system,  
15 whose purpose is to lift or move tangible personal property; and  
16 automated handling, storage, and retrieval systems, including computers  
17 that control them, whose purpose is to lift or move tangible personal  
18 property; and forklifts and other off-the-road vehicles that are used  
19 to lift or move tangible personal property and that cannot be operated  
20 legally on roads and streets. "Racking equipment" includes, but is not  
21 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
22 pallets, and other containers and storage devices that form a necessary  
23 part of the storage system;

24 (h) "Person" has the meaning given in RCW 82.04.030;

25 (i) "Retailer" means a person who makes "sales at retail" as  
26 defined in chapter 82.04 RCW of tangible personal property;

27 (j) "Square footage" means the product of the two horizontal  
28 dimensions of each floor of a specific warehouse. The entire footprint  
29 of the warehouse shall be measured in calculating the square footage,  
30 including space that juts out from the building profile such as loading  
31 docks. "Square footage" does not mean the aggregate of the square  
32 footage of more than one warehouse at a location or the aggregate of  
33 the square footage of warehouses at more than one location;

34 (k) "Third-party warehouser" means a person taxable under RCW  
35 82.04.280(4);

36 (l) "Warehouse" means an enclosed building or structure in which  
37 finished goods are stored. A warehouse building or structure may have  
38 more than one storage room and more than one floor. Office space,  
39 lunchrooms, restrooms, and other space within the warehouse and

1 necessary for the operation of the warehouse are considered part of the  
2 warehouse as are loading docks and other such space attached to the  
3 building and used for handling of finished goods. Landscaping and  
4 parking lots are not considered part of the warehouse. A storage yard  
5 is not a warehouse, nor is a building in which manufacturing takes  
6 place; and

7 (m) "Wholesaler" means a person who makes "sales at wholesale" as  
8 defined in chapter 82.04 RCW of tangible personal property, but  
9 "wholesaler" does not include a person who makes sales exempt under RCW  
10 82.04.330.

11 (3)(a) A person claiming an exemption from state tax in the form of  
12 a remittance under this section must pay the tax imposed by RCW  
13 82.08.020. The buyer may then apply to the department for remittance  
14 of all or part of the tax paid under RCW 82.08.020. For grain  
15 elevators with bushel capacity of one million but less than two  
16 million, the remittance is equal to fifty percent of the amount of tax  
17 paid. For warehouses with square footage of two hundred thousand or  
18 more and for grain elevators with bushel capacity of two million or  
19 more, the remittance is equal to one hundred percent of the amount of  
20 tax paid for qualifying construction, materials, service, and labor,  
21 and fifty percent of the amount of tax paid for qualifying material-  
22 handling equipment and racking equipment, and labor and services  
23 rendered in respect to installing, repairing, cleaning, altering, or  
24 improving the equipment.

25 (b) The department shall determine eligibility under this section  
26 based on information provided by the buyer and through audit and other  
27 administrative records. The buyer shall on a quarterly basis submit an  
28 information sheet, in a form and manner as required by the department  
29 by rule, specifying the amount of exempted tax claimed and the  
30 qualifying purchases or acquisitions for which the exemption is  
31 claimed. The buyer shall retain, in adequate detail to enable the  
32 department to determine whether the equipment or construction meets the  
33 criteria under this section: Invoices; proof of tax paid; documents  
34 describing the material-handling equipment and racking equipment;  
35 location and size of warehouses and grain elevators; and construction  
36 invoices and documents.

37 (c) The department shall on a quarterly basis remit exempted  
38 amounts to qualifying persons who submitted applications during the  
39 previous quarter.

1 (4) Warehouses, grain elevators, and material-handling equipment  
2 and racking equipment for which an exemption, credit, or deferral has  
3 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63  
4 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
5 remittance under this section. Warehouses and grain elevators upon  
6 which construction was initiated before May 20, 1997, are not eligible  
7 for a remittance under this section.

8 (5) The lessor or owner of a warehouse or grain elevator is not  
9 eligible for a remittance under this section unless the underlying  
10 ownership of the warehouse or grain elevator and the material-handling  
11 equipment and racking equipment vests exclusively in the same person,  
12 or unless the lessor by written contract agrees to pass the economic  
13 benefit of the remittance to the lessee in the form of reduced rent  
14 payments.

15 **Sec. 14.** RCW 82.08.890 and 2001 2nd sp.s. c 18 s 2 are each  
16 amended to read as follows:

17 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
18 eligible persons of services rendered in respect to operating,  
19 repairing, cleaning, altering, or improving of dairy nutrient  
20 management equipment and facilities, or to sales of tangible personal  
21 property that becomes an ingredient or component of the equipment and  
22 facilities. The equipment and facilities must be used exclusively for  
23 activities necessary to maintain a dairy nutrient management plan as  
24 required under chapter 90.64 RCW. This exemption applies to sales made  
25 after the dairy nutrient management plan is certified under chapter  
26 90.64 RCW.

27 (2)(a) The department (~~(of revenue)~~) must provide an exemption  
28 certificate to an eligible person upon application by that person. The  
29 department of (~~(agriculture)~~) ecology must provide a list of eligible  
30 persons to the department of revenue. The application must be in a  
31 form and manner prescribed by the department and must contain  
32 information regarding the location of the dairy and other information  
33 the department may require.

34 (b) The exemption is available only (~~(when)~~) if the buyer provides  
35 the seller with an exemption certificate in a form and manner  
36 prescribed by the department. The seller must retain a copy of the  
37 certificate for the seller's files.

1 (3) The definitions in this subsection apply to this section and  
2 RCW 82.12.890 unless the context clearly requires otherwise:

3 (a) "Dairy nutrient management equipment and facilities" means  
4 machinery, equipment, and structures used in the handling and treatment  
5 of dairy manure, such as aerators, agitators, alley scrapers, augers,  
6 dams, gutter cleaners, loaders, lagoons, pipes, pumps, separators, and  
7 tanks. The term also includes tangible personal property that becomes  
8 an ingredient or component of the equipment and facilities, including  
9 repair and replacement parts.

10 (b) "Eligible person" means a person licensed to produce milk under  
11 chapter 15.36 RCW who has a certified dairy nutrient management plan by  
12 December 31, 2003, as required by chapter 90.64 RCW.

13 **Sec. 15.** RCW 82.12.02565 and 1999 c 211 s 6 are each amended to  
14 read as follows:

15 (1) The provisions of this chapter shall not apply in respect to  
16 the use by a manufacturer or processor for hire of machinery and  
17 equipment used directly in a manufacturing operation or research and  
18 development operation or to the use by a person engaged in testing for  
19 a manufacturer or processor for hire of machinery and equipment used  
20 directly in a testing operation.

21 (2) The provisions of this chapter shall not apply to a bailor upon  
22 the bailment without intervening use when the bailment is by a  
23 manufacturer or processor for hire of tangible personal property to a  
24 manufacturer or processor for hire, if the bailee's use of the tangible  
25 personal property is eligible for the exemption from tax under this  
26 section.

27 **Sec. 16.** 2001 c 188 s 1 (uncodified) is amended to read as  
28 follows:

29 The legislature finds that programs to allow buyers to remit sales  
30 and use tax, rather than traditional collection and remittance by the  
31 seller of sales and use tax, can assist in tax compliance, ease  
32 administrative burdens, and reduce ~~((impacts on))~~ expenses of buyers  
33 and sellers. It is the intent of the legislature to grant the  
34 department of revenue the authority to permit certain buyers to make  
35 direct payment ~~((authority))~~ of tax in those instances where it can be  
36 shown, to the satisfaction of the department, that direct payment does  
37 not burden sellers and does not complicate administration for the

1 department. Buyers authorized for direct payment will remit tax  
2 directly to the department, and will pay use tax on tangible personal  
3 property and sales tax on retail labor and/or services.

4 This act does not affect the requirements to use a resale  
5 certificate nor does it affect the business and occupation tax  
6 treatment of the seller or reduce the tax burden of the buyer.

7 **Sec. 17.** RCW 82.12.010 and 2001 c 188 s 3 are each amended to read  
8 as follows:

9 For the purposes of this chapter:

10 (1)(a) "Value of the article used" shall mean the consideration,  
11 whether money, credit, rights, or other property except trade-in  
12 property of like kind, expressed in terms of money, paid or given or  
13 contracted to be paid or given by the purchaser to the seller for the  
14 article of tangible personal property, the use of which is taxable  
15 under this chapter. The term includes, in addition to the  
16 consideration paid or given or contracted to be paid or given, the  
17 amount of any tariff or duty paid with respect to the importation of  
18 the article used. In case the article used is acquired by lease or by  
19 gift or is extracted, produced, or manufactured by the person using the  
20 same or is sold under conditions wherein the purchase price does not  
21 represent the true value thereof, the value of the article used shall  
22 be determined as nearly as possible according to the retail selling  
23 price at place of use of similar products of like quality and character  
24 under such rules as the department of revenue may prescribe.

25 (b) In case the articles used are acquired by bailment, the value  
26 of the use of the articles so used shall be in an amount representing  
27 a reasonable rental for the use of the articles so bailed, determined  
28 as nearly as possible according to the value of such use at the places  
29 of use of similar products of like quality and character under such  
30 rules as the department of revenue may prescribe. In case any such  
31 articles of tangible personal property are used in respect to the  
32 construction, repairing, decorating, or improving of, and which become  
33 or are to become an ingredient or component of, new or existing  
34 buildings or other structures under, upon, or above real property of or  
35 for the United States, any instrumentality thereof, or a county or city  
36 housing authority created pursuant to chapter 35.82 RCW, including the  
37 installing or attaching of any such articles therein or thereto,  
38 whether or not such personal property becomes a part of the realty by

1 virtue of installation, then the value of the use of such articles so  
2 used shall be determined according to the retail selling price of such  
3 articles, or in the absence of such a selling price, as nearly as  
4 possible according to the retail selling price at place of use of  
5 similar products of like quality and character or, in the absence of  
6 either of these selling price measures, such value may be determined  
7 upon a cost basis, in any event under such rules as the department of  
8 revenue may prescribe.

9 (c) In the case of articles owned by a user engaged in business  
10 outside the state which are brought into the state for no more than one  
11 hundred eighty days in any period of three hundred sixty-five  
12 consecutive days and which are temporarily used for business purposes  
13 by the person in this state, the value of the article used shall be an  
14 amount representing a reasonable rental for the use of the articles,  
15 unless the person has paid tax under this chapter or chapter 82.08 RCW  
16 upon the full value of the article used, as defined in (a) of this  
17 subsection.

18 (d) In the case of articles manufactured or produced by the user  
19 and used in the manufacture or production of products sold or to be  
20 sold to the department of defense of the United States, the value of  
21 the articles used shall be determined according to the value of the  
22 ingredients of such articles.

23 (e) In the case of an article manufactured or produced for purposes  
24 of serving as a prototype for the development of a new or improved  
25 product, the value of the article used shall be determined by: (i) The  
26 retail selling price of such new or improved product when first offered  
27 for sale; or (ii) the value of materials incorporated into the  
28 prototype in cases in which the new or improved product is not offered  
29 for sale.

30 (f) In the case of an article purchased with a direct pay permit  
31 under RCW 82.32.087, the value of the article used shall be determined  
32 by the retail selling price, as defined in RCW 82.08.010, of such  
33 article if but for the use of the direct pay permit the transaction  
34 would have been subject to sales tax;

35 (2) "Use," "used," "using," or "put to use" shall have their  
36 ordinary meaning, and shall mean the first act within this state by  
37 which the taxpayer takes or assumes dominion or control over the  
38 article of tangible personal property (as a consumer), and include  
39 installation, storage, withdrawal from storage, or any other act

1 preparatory to subsequent actual use or consumption within this state.  
2 In the case of an article purchased with a direct pay permit under RCW  
3 82.32.087, and stored within this state preparatory to subsequent  
4 actual use or consumption outside this state, such storage within this  
5 state is deemed to be actual use within this state, if but for the use  
6 of the direct pay permit the transaction would have been subject to the  
7 tax imposed by RCW 82.08.020;

8 (3) "Taxpayer" and "purchaser" include all persons included within  
9 the meaning of the word "buyer" and the word "consumer" as defined in  
10 chapters 82.04 and 82.08 RCW;

11 (4) "Retailer" means every seller as defined in RCW 82.08.010 and  
12 every person engaged in the business of selling tangible personal  
13 property at retail and every person required to collect from purchasers  
14 the tax imposed under this chapter;

15 (5) The meaning ascribed to words and phrases in chapters 82.04 and  
16 82.08 RCW, insofar as applicable, shall have full force and effect with  
17 respect to taxes imposed under the provisions of this chapter.  
18 "Consumer," in addition to the meaning ascribed to it in chapters 82.04  
19 and 82.08 RCW insofar as applicable, shall also mean any person who  
20 distributes or displays, or causes to be distributed or displayed, any  
21 article of tangible personal property, except newspapers, the primary  
22 purpose of which is to promote the sale of products or services.

23 **Sec. 18.** RCW 82.12.02567 and 2001 c 213 s 2 are each amended to  
24 read as follows:

25 (1) The provisions of this chapter shall not apply with respect to  
26 machinery and equipment used directly in generating not less than two  
27 hundred watts of electricity using fuel cells, wind, sun, or landfill  
28 gas as the principal source of power.

29 (2) The definitions in RCW 82.08.02567 apply to this section.

30 (3) This section expires June 30, 2009.

31 **Sec. 19.** RCW 82.12.0277 and 2001 c 75 s 2 are each amended to read  
32 as follows:

33 The provisions of this chapter shall not apply in respect to the  
34 use of insulin; prosthetic devices and the components thereof; dental  
35 appliances, devices, restorations, and substitutes, and the components  
36 thereof, including but not limited to full and partial dentures,  
37 crowns, inlays, fillings, braces, and retainers; orthotic devices

1 prescribed for an individual by a person licensed under chapters 18.22,  
2 18.25, 18.57, or 18.71 RCW, and the components thereof; hearing  
3 instruments dispensed or fitted by a person licensed or certified under  
4 chapter 18.35 RCW, and the components thereof; medicines of mineral,  
5 animal, and botanical origin prescribed, administered, dispensed, or  
6 used in the treatment of an individual by a person licensed under  
7 chapter 18.36A RCW; ostomic items; and ~~((medically prescribed))~~ oxygen,  
8 including, but not limited to, oxygen concentrator systems, oxygen  
9 enricher systems, liquid oxygen systems, ~~((and))~~ gaseous, bottled  
10 oxygen systems, and other like portable systems, to be prescribed for  
11 use by an individual, whether or not purchased by an individual. The  
12 prescription must be by a person licensed under chapter 18.57 or 18.71  
13 RCW for use in the medical treatment of ~~((that))~~ the individual.

14 **Sec. 20.** RCW 82.12.045 and 1996 c 149 s 19 are each amended to  
15 read as follows:

16 (1) ~~((In the collection of the use tax on motor vehicles,))~~ The  
17 department ~~((of revenue))~~ may designate the county auditors of the  
18 several counties of the state as its collecting agents in the  
19 collection of the use tax on tangible personal property consisting of  
20 vehicles as defined in RCW 46.04.670, off-road vehicles as defined in  
21 RCW 46.09.020, snowmobiles as defined in RCW 46.10.010, or vessels as  
22 defined in RCW 88.02.010. Upon such designation, ~~((it shall be the~~  
23 duty of)) each county auditor ~~((to))~~ shall collect the tax ~~((at the~~  
24 time)) when an applicant applies for the registration of, and transfer  
25 of certificate of ownership or vessel certificate of title to, the  
26 ~~((motor vehicle))~~ property, except ~~((in the following instances))~~ where  
27 the:

28 (a) ~~((Where the))~~ Applicant exhibits a dealer's report of sale  
29 showing that ~~((the retail sales tax has been collected by))~~ the dealer  
30 has collected the retail sales tax;

31 (b) ~~((Where the))~~ Application is for the renewal of registration;

32 (c) ~~((Where the))~~ Applicant presents a written statement signed by  
33 the department ~~((of revenue))~~, or its duly authorized agent showing  
34 that no use tax is legally due; or

35 (d) ~~((Where the))~~ Applicant presents satisfactory evidence showing  
36 that the applicant has paid the retail sales tax or the use tax ~~((has~~  
37 been paid by him)) on the ~~((vehicle))~~ property in question.

1       ~~((The term "motor vehicle," as used in this section means and~~  
2 ~~includes all motor vehicles, trailers and semitrailers used, or of a~~  
3 ~~type designed primarily to be used, upon the public streets and~~  
4 ~~highways, for the convenience or pleasure of the owner, or for the~~  
5 ~~conveyance, for hire or otherwise, of persons or property, including~~  
6 ~~fixed loads, facilities for human habitation, and vehicles carrying~~  
7 ~~exempt licenses.~~

8       ~~(3) It shall be the duty of)~~ Every applicant applying for  
9 registration and transfer of certificate of ownership or vessel  
10 certificate of title who is subject to payment of tax under this  
11 section ~~((to))~~ shall declare upon ~~((his))~~ the application the value of  
12 the ~~((vehicle))~~ property for which application is made, which shall  
13 consist of the consideration paid or contracted to be paid therefor.

14       ~~((4) Each county auditor who acts as agent of the department of~~  
15 ~~revenue shall at the time of)~~ (3) When remitting license fee receipts  
16 on ~~((motor vehicles))~~ tangible personal property subject to the  
17 provisions of this section, each county auditor shall pay over and  
18 account to the state treasurer for all use tax revenue collected under  
19 this section~~((, after first deducting as his))~~. Each county auditor  
20 may deduct a collection fee ~~((the sum))~~ of two dollars for each ~~((motor~~  
21 ~~vehicle))~~ transfer of personal property upon which the tax ~~((has been))~~  
22 was collected. The state treasurer shall credit all revenue received  
23 ~~((by the state treasurer))~~ under this section ~~((shall be credited))~~ to  
24 the general fund. Each county auditor shall deposit the ~~((auditor's))~~  
25 collection fee ~~((shall be deposited))~~ in the county current expense  
26 fund. A duplicate of the county auditor's transmittal report to the  
27 state treasurer shall be forwarded ~~((forthwith))~~ immediately to the  
28 department ~~((of revenue))~~.

29       ~~((5))~~ (4) Any applicant who ~~((has))~~ paid use tax to a county  
30 auditor under this section may apply to the department ~~((of revenue))~~  
31 for refund thereof if ~~((he))~~ the applicant has reason to believe that  
32 such tax was not legally due and owing. No refund shall be allowed  
33 unless application therefor is received by the department of revenue  
34 within the statutory period for assessment of taxes, penalties, or  
35 interest prescribed by RCW 82.32.050(3). Upon receipt of an  
36 application for refund the department ~~((of revenue))~~ shall consider the  
37 same and issue its order either granting or denying it and if refund is  
38 denied the taxpayer shall have the right of appeal as provided in RCW  
39 82.32.170~~((7))~~ and 82.32.180 ~~((and 82.32.190))~~.

1       (~~(6)~~) (5) The provisions of this section shall be construed as  
2 cumulative of other methods prescribed in (~~chapters 82.04 to 82.32~~  
3 ~~RCW~~) this title, inclusive, for the collection of the tax imposed by  
4 this chapter. The department (~~of revenue shall have power to~~  
5 ~~promulgate~~) may adopt such rules as may be necessary to administer the  
6 provisions of this section. Any duties required by this section to be  
7 performed by the county auditor may be performed by the director of  
8 licensing but no collection fee shall be deductible by said director in  
9 remitting use tax revenue to the state treasurer.

10       **Sec. 21.** RCW 82.14.0485 and 1995 3rd sp.s. c 1 s 101 are each  
11 amended to read as follows:

12       (1) The legislative authority of a county with a population of one  
13 million or more may impose a sales and use tax in accordance with the  
14 terms of this chapter. The tax is in addition to other taxes  
15 authorized by law and shall be collected from those persons who are  
16 taxable by the state under chapters 82.08 and 82.12 RCW upon the  
17 occurrence of any taxable event within the county. The rate of tax  
18 shall not exceed 0.017 percent of the selling price in the case of a  
19 sales tax or value of the article used in the case of a use tax.

20       (2) The tax imposed under subsection (1) of this section (~~shall be~~  
21 ~~deducted from the amount of tax otherwise required to be collected or~~  
22 ~~paid over to the department of revenue~~) is a credit against the state  
23 tax under chapter 82.08 or 82.12 RCW. The department (~~of revenue~~)  
24 shall perform the collection of such taxes on behalf of the county at  
25 no cost to the county and shall remit the tax to the county pursuant to  
26 RCW 82.14.060.

27       (3) Moneys collected under this section shall only be used for the  
28 purpose of paying the principal and interest payments on bonds issued  
29 by a county to construct a baseball stadium.

30       (4) No tax may be collected under this section before January 1,  
31 1996, and no tax may be collected under this section unless the taxes  
32 under RCW 82.14.360 are being collected. The tax imposed in this  
33 section shall expire when the bonds issued for the construction of the  
34 baseball stadium are retired, but not more than twenty years after the  
35 tax is first collected.

36       (5) As used in this section, "baseball stadium" means a baseball  
37 stadium with natural turf and a retractable roof or canopy, together

1 with associated parking facilities, constructed in the largest city in  
2 a county with a population of one million or more.

3 **Sec. 22.** RCW 82.14.0494 and 1997 c 220 s 204 are each amended to  
4 read as follows:

5 (1) The legislative authority of a county that has created a public  
6 stadium authority to develop a stadium and exhibition center under RCW  
7 36.102.050 may impose a sales and use tax in accordance with this  
8 chapter. The tax is in addition to other taxes authorized by law and  
9 shall be collected from those persons who are taxable by the state  
10 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable  
11 event within the county. The rate of tax shall be 0.016 percent of the  
12 selling price in the case of a sales tax or value of the article used  
13 in the case of a use tax.

14 (2) The tax imposed under subsection (1) of this section (~~shall be~~  
15 ~~deducted from the amount of tax otherwise required to be collected or~~  
16 ~~paid over to the department of revenue~~) is a credit against the state  
17 tax under chapter 82.08 or 82.12 RCW. The department (~~of revenue~~)  
18 shall perform the collection of such taxes on behalf of the county at  
19 no cost to the county and shall remit the tax pursuant to RCW  
20 82.14.060.

21 (3) Before the issuance of bonds in RCW 43.99N.020, all revenues  
22 collected on behalf of the county under this section shall be  
23 transferred to the public stadium authority. After bonds are issued  
24 under RCW 43.99N.020, all revenues collected on behalf of the county  
25 under this section shall be deposited in the stadium and exhibition  
26 center account under RCW 43.99N.060.

27 (4) The definitions in RCW 36.102.010 apply to this section.

28 (5) This section expires on the earliest of the following dates:

29 (a) December 31, 1999, if the conditions for issuance of bonds  
30 under RCW 43.99N.020 have not been met before that date;

31 (b) The date on which all bonds issued under RCW 43.99N.020 have  
32 been retired; or

33 (c) Twenty-three years after the date the tax under this section is  
34 first imposed.

35 **Sec. 23.** RCW 82.14.370 and 1999 c 311 s 101 are each amended to  
36 read as follows:

1 (1) The legislative authority of a rural county may impose a sales  
2 and use tax in accordance with the terms of this chapter. The tax is  
3 in addition to other taxes authorized by law and shall be collected  
4 from those persons who are taxable by the state under chapters 82.08  
5 and 82.12 RCW upon the occurrence of any taxable event within the  
6 county. The rate of tax shall not exceed 0.08 percent of the selling  
7 price in the case of a sales tax or value of the article used in the  
8 case of a use tax, except that for rural counties with population  
9 densities between sixty and one hundred persons per square mile, the  
10 rate shall not exceed 0.04 percent before January 1, 2000.

11 (2) The tax imposed under subsection (1) of this section (~~shall be~~  
12 ~~deducted from the amount of tax otherwise required to be collected or~~  
13 ~~paid over to the department of revenue~~) is a credit against the state  
14 tax under chapter 82.08 or 82.12 RCW. The department (~~of revenue~~)  
15 shall perform the collection of such taxes on behalf of the county at  
16 no cost to the county and shall remit the tax pursuant to RCW  
17 82.14.060.

18 (3) Moneys collected under this section shall only be used for the  
19 purpose of financing public facilities in rural counties. The public  
20 facility must be listed as an item in the officially adopted county  
21 overall economic development plan, or the economic development section  
22 of the county's comprehensive plan, or the comprehensive plan of a city  
23 or town located within the county for those counties planning under RCW  
24 36.70A.040. For those counties that do not have an adopted overall  
25 economic development plan and do not plan under the growth management  
26 act, the public facility must be listed in the county's capital  
27 facilities plan or the capital facilities plan of a city or town  
28 located within the county. In implementing this section, the county  
29 shall consult with cities, towns, and port districts located within the  
30 county. For the purposes of this section, "public facilities" means  
31 bridges, roads, domestic and industrial water facilities, sanitary  
32 sewer facilities, earth stabilization, storm sewer facilities,  
33 railroad, electricity, natural gas, buildings, structures,  
34 telecommunications infrastructure, transportation infrastructure, or  
35 commercial infrastructure, and port facilities in the state of  
36 Washington.

37 (4) No tax may be collected under this section before July 1, 1998.  
38 No tax may be collected under this section by a county more than

1 twenty-five years after the date that a tax is first imposed under this  
2 section.

3 (5) For purposes of this section, "rural county" means a county  
4 with a population density of less than one hundred persons per square  
5 mile as determined by the office of financial management and published  
6 each year by the department for the period July 1st to June 30th.

7 **Sec. 24.** RCW 82.14.390 and 1999 c 165 s 13 are each amended to  
8 read as follows:

9 (1) Except as provided in subsection (6) of this section, the  
10 governing body of a public facilities district created under chapter  
11 35.57 or 36.100 RCW that commences construction of a new regional  
12 center, or improvement or rehabilitation of an existing new regional  
13 center, before January 1, 2003, may impose a sales and use tax in  
14 accordance with the terms of this chapter. The tax is in addition to  
15 other taxes authorized by law and shall be collected from those persons  
16 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
17 the occurrence of any taxable event within the public facilities  
18 district. The rate of tax shall not exceed 0.033 percent of the  
19 selling price in the case of a sales tax or value of the article used  
20 in the case of a use tax.

21 (2) The tax imposed under subsection (1) of this section (~~((shall be~~  
22 ~~deducted from the amount of tax otherwise required to be collected or~~  
23 ~~paid over to the department of revenue))~~ is a credit against the state  
24 tax under chapter 82.08 or 82.12 RCW. The department (~~((of revenue))~~)  
25 shall perform the collection of such taxes on behalf of the county at  
26 no cost to the public facilities district and shall remit the tax  
27 pursuant to RCW 82.14.060.

28 (3) No tax may be collected under this section before August 1,  
29 2000. The tax imposed in this section shall expire when the bonds  
30 issued for the construction of the regional center and related parking  
31 facilities are retired, but not more than twenty-five years after the  
32 tax is first collected.

33 (4) Moneys collected under this section shall only be used for the  
34 purposes set forth in RCW 35.57.020 and must be matched with an amount  
35 from other public or private sources equal to thirty-three percent of  
36 the amount collected under this section, provided that amounts  
37 generated from nonvoter approved taxes authorized under chapter 35.57  
38 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW

1 shall not constitute a public or private source. For the purpose of  
2 this section, public or private sources includes, but is not limited to  
3 cash or in-kind contributions used in all phases of the development or  
4 improvement of the regional center, land that is donated and used for  
5 the siting of the regional center, cash or in-kind contributions from  
6 public or private foundations, or amounts attributed to private sector  
7 partners as part of a public and private partnership agreement  
8 negotiated by the public facilities district.

9 (5) The combined total tax levied under this section shall not be  
10 greater than 0.033 percent. If both a public facilities district  
11 created under chapter 35.57 RCW and a public facilities district  
12 created under chapter 36.100 RCW impose a tax under this section, the  
13 tax imposed by a public facilities district created under chapter 35.57  
14 RCW shall be credited against the tax imposed by a public facilities  
15 district created under chapter 36.100 RCW.

16 (6) A public facilities district created under chapter 36.100 RCW  
17 is not eligible to impose the tax under this section if the legislative  
18 authority of the county where the public facilities district is located  
19 has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

20 **Sec. 25.** RCW 82.16.010 and 1996 c 150 s 1 are each amended to read  
21 as follows:

22 The definitions in chapter 82.04 RCW apply throughout this chapter,  
23 unless the context clearly requires otherwise or unless otherwise  
24 provided. For the purposes of this chapter, unless otherwise required  
25 by the context:

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

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

34 (3) "Railroad car business" means the business of operating stock  
35 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank  
36 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any  
37 other kinds of cars used for transportation of property or persons upon

1 the line of any railroad operated in this state when such railroad is  
2 not owned or leased by the person engaging in such business.

3 (4) "Water distribution business" means the business of operating  
4 a plant or system for the distribution of water for hire or sale.

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

9 (6) "Telegraph business" means the business of affording  
10 telegraphic communication for hire.

11 (7) "Gas distribution business" means the business of operating a  
12 plant or system for the production or distribution for hire or sale of  
13 gas, whether manufactured or natural.

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

23 (9) "Urban transportation business" means the business of operating  
24 any vehicle for public use in the conveyance of persons or property for  
25 hire, insofar as (a) operating entirely within the corporate limits of  
26 any city or town, or within five miles of the corporate limits thereof,  
27 or (b) operating entirely within and between cities and towns whose  
28 corporate limits are not more than five miles apart or within five  
29 miles of the corporate limits of either thereof. Included herein, but  
30 without limiting the scope hereof, is the business of operating  
31 passenger vehicles of every type and also the business of operating  
32 cartage, pickup, or delivery services, including in such services the  
33 collection and distribution of property arriving from or destined to a  
34 point within or without the state, whether or not such collection or  
35 distribution be made by the person performing a local or interstate  
36 line-haul of such property.

37 (10) "Public service business" means any of the businesses defined  
38 in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) or any  
39 business subject to control by the state, or having the powers of

1 eminent domain and the duties incident thereto, or any business  
2 hereafter declared by the legislature to be of a public service nature,  
3 except telephone business as defined in RCW 82.04.065 and low-level  
4 radioactive waste site operating companies as redefined in RCW  
5 81.04.010. It includes, among others, without limiting the scope  
6 hereof: Airplane transportation, boom, dock, ferry, pipe line, toll  
7 bridge, toll logging road, water transportation and wharf businesses.

8 (11) "Tugboat business" means the business of operating tugboats,  
9 towboats, wharf boats or similar vessels in the towing or pushing of  
10 vessels, barges or rafts for hire.

11 (12) "Gross income" means the value proceeding or accruing from the  
12 performance of the particular public service or transportation business  
13 involved, including operations incidental thereto, but without any  
14 deduction on account of the cost of the commodity furnished or sold,  
15 the cost of materials used, labor costs, interest, discount, delivery  
16 costs, taxes, or any other expense whatsoever paid or accrued and  
17 without any deduction on account of losses.

18 (~~(13) The meaning attributed, in chapter 82.04 RCW, to the term  
19 "tax year," "person," "value proceeding or accruing," "business,"  
20 "engaging in business," "in this state," "within this state," "cash  
21 discount" and "successor" shall apply equally in the provisions of this  
22 chapter.~~)

23 **Sec. 26.** RCW 82.18.060 and 1989 c 431 s 87 are each amended to  
24 read as follows:

25 To prevent pyramiding and multiple taxation of a single  
26 transaction, the solid waste collection taxes imposed in this chapter  
27 shall not apply to any solid waste collection business using the  
28 services of another solid waste collection business for the transfer,  
29 storage, processing, or disposal of the waste collected during the  
30 transaction.

31 To be eligible for this exemption, a ~~((person first must be  
32 certified by the department of revenue as a))~~ solid waste collection  
33 business using the services of another solid waste collection business  
34 must provide the business with an exemption certificate in a form and  
35 manner prescribed by the department. The solid waste collection  
36 business providing the services shall retain a copy of the exemption  
37 certificate for its files.

1       **Sec. 27.** RCW 82.32.050 and 1997 c 157 s 1 are each amended to read  
2 as follows:

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

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

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

25       (c) Interest imposed after December 31, 1998, shall be computed  
26 from the last day of the month following each calendar year included in  
27 a notice, and the last day of the month following the final month  
28 included in a notice if not the end of a calendar year, until the due  
29 date of the notice. If payment in full is not made by the due date of  
30 the notice, additional interest shall be computed until the date of  
31 payment. The rate of interest shall be variable and computed as  
32 provided in subsection (2) of this section. The rate so computed shall  
33 be adjusted on the first day of January of each year for use in  
34 computing interest for that calendar year.

35       (2) For the purposes of this section, the rate of interest to be  
36 charged to the taxpayer shall be an average of the federal short-term  
37 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.  
38 The rate set for each new year shall be computed by taking an  
39 arithmetical average to the nearest percentage point of the federal

1 short-term rate, compounded annually(~~(, for the months of January,~~  
2 ~~April, July, and October of the immediately preceding calendar year as~~  
3 ~~published by the United States secretary of the treasury)). That  
4 average shall be calculated using the rates from four months: January,  
5 April, and June of the calendar year immediately preceding the new  
6 year, and October of the previous preceding year.~~

7 (3) No assessment or correction of an assessment for additional  
8 taxes, penalties, or interest due may be made by the department more  
9 than four years after the close of the tax year, except (a) against a  
10 taxpayer who has not registered as required by this chapter, (b) upon  
11 a showing of fraud or of misrepresentation of a material fact by the  
12 taxpayer, or (c) where a taxpayer has executed a written waiver of such  
13 limitation. The execution of a written waiver shall also extend the  
14 period for making a refund or credit as provided in RCW 82.32.060(2).

15 (4) For the purposes of this section, "return" means any document  
16 a person is required by the state of Washington to file to satisfy or  
17 establish a tax or fee obligation that is administered or collected by  
18 the department of revenue and that has a statutorily defined due date.

19 **Sec. 28.** RCW 82.32.060 and 1999 c 358 s 13 are each amended to  
20 read as follows:

21 (1) If, upon receipt of an application by a taxpayer for a refund  
22 or for an audit of the taxpayer's records, or upon an examination of  
23 the returns or records of any taxpayer, it is determined by the  
24 department that within the statutory period for assessment of taxes,  
25 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,  
26 penalty, or interest has been paid in excess of that properly due, the  
27 excess amount paid within, or attributable to, such period shall be  
28 credited to the taxpayer's account or shall be refunded to the  
29 taxpayer, at the taxpayer's option. Except as provided in  
30 subsection(~~(s)~~) (2) (~~and (3)~~) of this section, no refund or credit  
31 shall be made for taxes, penalties, or interest paid more than four  
32 years prior to the beginning of the calendar year in which the refund  
33 application is made or examination of records is completed.

34 (2) The execution of a written waiver under RCW 82.32.050 or  
35 82.32.100 shall extend the time for making a refund or credit of any  
36 taxes paid during, or attributable to, the years covered by the waiver  
37 if, prior to the expiration of the waiver period, an application for

1 refund of such taxes is made by the taxpayer or the department  
2 discovers a refund or credit is due.

3 ~~(3) ((Notwithstanding the foregoing limitations there shall be~~  
4 ~~refunded or credited to taxpayers engaged in the performance of United~~  
5 ~~States government contracts or subcontracts the amount of any tax paid,~~  
6 ~~measured by that portion of the amounts received from the United~~  
7 ~~States, which the taxpayer is required by contract or applicable~~  
8 ~~federal statute to refund or credit to the United States, if claim for~~  
9 ~~such refund is filed by the taxpayer with the department within one~~  
10 ~~year of the date that the amount of the refund or credit due to the~~  
11 ~~United States is finally determined and filed within four years of the~~  
12 ~~date on which the tax was paid: PROVIDED, That no interest shall be~~  
13 ~~allowed on such refund.~~

14 ~~(4))~~ Any such refunds shall be made by means of vouchers approved  
15 by the department and by the issuance of state warrants drawn upon and  
16 payable from such funds as the legislature may provide. However,  
17 taxpayers who are required to pay taxes by electronic funds transfer  
18 under RCW 82.32.080 shall have any refunds paid by electronic funds  
19 transfer.

20 ~~((+5))~~ (4) Any judgment for which a recovery is granted by any  
21 court of competent jurisdiction, not appealed from, for tax, penalties,  
22 and interest which were paid by the taxpayer, and costs, in a suit by  
23 any taxpayer shall be paid in the same manner, as provided in  
24 subsection ~~((+4))~~ (3) of this section, upon the filing with the  
25 department of a certified copy of the order or judgment of the court.

26 (a) Interest at the rate of three percent per annum shall be  
27 allowed by the department and by any court on the amount of any refund,  
28 credit, or other recovery allowed to a taxpayer for taxes, penalties,  
29 or interest paid by the taxpayer before January 1, 1992. This rate of  
30 interest shall apply for all interest allowed through December 31,  
31 1998. Interest allowed after December 31, 1998, shall be computed at  
32 the rate as computed under RCW 82.32.050(2). The rate so computed  
33 shall be adjusted on the first day of January of each year for use in  
34 computing interest for that calendar year.

35 (b) For refunds or credits of amounts paid or other recovery  
36 allowed to a taxpayer after December 31, 1991, the rate of interest  
37 shall be the rate as computed for assessments under RCW 82.32.050(2)  
38 less one percent. This rate of interest shall apply for all interest  
39 allowed through December 31, 1998. Interest allowed after December 31,

1 1998, shall be computed at the rate as computed under RCW 82.32.050(2).  
2 The rate so computed shall be adjusted on the first day of January of  
3 each year for use in computing interest for that calendar year.

4 **Sec. 29.** RCW 82.45.032 and 2001 c 282 s 2 are each amended to read  
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8 (1) "Real estate" or "real property" means any interest, estate, or  
9 beneficial interest in land or anything affixed to land, including the  
10 ownership interest or beneficial interest in any entity which itself  
11 owns land or anything affixed to land. The term includes used mobile  
12 homes, used park model trailers, used floating homes, and improvements  
13 constructed upon leased land.

14 (2) "Used mobile home" means a mobile home which has been  
15 previously sold at retail and has been subjected to tax under chapter  
16 82.08 RCW, or which has been previously used and has been subjected to  
17 tax under chapter 82.12 RCW, and which has substantially lost its  
18 identity as a mobile unit at the time of sale by virtue of its being  
19 ~~((fixed in location upon land owned or leased by the owner of the  
20 mobile home and placed on a foundation (posts or blocks) with fixed  
21 pipe connections with sewer, water, and other utilities))~~ permanently  
22 sited in location and placed on a foundation of either posts or blocks  
23 with connections with sewer, water, or other utilities for the  
24 operation of installed fixtures and appliances.

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

27 (4) "Park model trailer" means a park model trailer as defined in  
28 RCW 46.04.622.

29 (5) "Used floating home" means a floating home in respect to which  
30 tax has been paid under chapter 82.08 or 82.12 RCW.

31 (6) "Used park model trailer" means a park model trailer that has  
32 been previously sold at retail and has been subjected to tax under  
33 chapter 82.08 RCW, or that has been previously used and has been  
34 subjected to tax under chapter 82.12 RCW, and that has substantially  
35 lost its identity as a mobile unit by virtue of its being permanently  
36 sited in location and placed on a foundation of either posts or blocks  
37 with connections with sewer, water, or other utilities for the  
38 operation of installed fixtures and appliances.

1 (7) "Floating home" means a building on a float used in whole or in  
2 part for human habitation as a single-family dwelling, which is not  
3 designed for self propulsion by mechanical means or for propulsion by  
4 means of wind, and which is on the property tax rolls of the county in  
5 which it is located.

6 **Sec. 30.** RCW 84.04.090 and 1987 c 155 s 1 are each amended to read  
7 as follows:

8 The term "real property" for the purposes of taxation shall be held  
9 and construed to mean and include the land itself, whether laid out in  
10 town lots or otherwise, and all buildings, structures or improvements  
11 or other fixtures of whatsoever kind thereon, except improvements upon  
12 lands the fee of which is still vested in the United States, or in the  
13 state of Washington, and all rights and privileges thereto belonging or  
14 in any wise appertaining, except leases of real property and leasehold  
15 interests therein for a term less than the life of the holder; and all  
16 substances in and under the same; all standing timber growing thereon,  
17 except standing timber owned separately from the ownership of the land  
18 upon which the same may stand or be growing; and all property which the  
19 law defines or the courts may interpret, declare and hold to be real  
20 property under the letter, spirit, intent and meaning of the law for  
21 the purposes of taxation. The term real property shall also include a  
22 mobile home which has substantially lost its identity as a mobile unit  
23 by virtue of its being permanently (~~((fixed in location upon land owned  
24 or leased by the owner of the mobile home and placed on a permanent  
25 foundation (posts or blocks) with fixed pipe connections with sewer,  
26 water, or other utilities))~~) sited in location and placed on a  
27 foundation of either posts or blocks with connections with sewer,  
28 water, or other utilities for the operation of installed fixtures and  
29 appliances: PROVIDED, That a mobile home located on land leased by the  
30 owner of the mobile home shall be subject to the personal property  
31 provisions of chapter 84.56 RCW and RCW 84.60.040.

32 **Sec. 31.** RCW 84.36.383 and 1999 c 358 s 18 are each amended to  
33 read as follows:

34 As used in RCW 84.36.381 through 84.36.389, except where the  
35 context clearly indicates a different meaning:

36 (1) The term "residence" means a single family dwelling unit  
37 whether such unit be separate or part of a multiunit dwelling,

1 including the land on which such dwelling stands not to exceed one  
2 acre. The term shall also include a share ownership in a cooperative  
3 housing association, corporation, or partnership if the person claiming  
4 exemption can establish that his or her share represents the specific  
5 unit or portion of such structure in which he or she resides. The term  
6 shall also include a single family dwelling situated upon lands the fee  
7 of which is vested in the United States or any instrumentality thereof  
8 including an Indian tribe or in the state of Washington, and  
9 notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a  
10 residence shall be deemed real property.

11 (2) The term "real property" shall also include a mobile home which  
12 has substantially lost its identity as a mobile unit by virtue of its  
13 being (~~((fixed in location upon land owned or leased by the owner of the  
14 mobile home and placed on a foundation (posts or blocks) with fixed  
15 pipe, connections with sewer, water, or other utilities))~~) permanently  
16 sited in location and placed on a foundation of either posts or blocks  
17 with connections with sewer, water, or other utilities for the  
18 operation of installed fixtures and appliances. A mobile home located  
19 on land leased by the owner of the mobile home is subject, for tax  
20 billing, payment, and collection purposes, only to the personal  
21 property provisions of chapter 84.56 RCW and RCW 84.60.040.

22 (3) "Department" means the state department of revenue.

23 (4) "Combined disposable income" means the disposable income of the  
24 person claiming the exemption, plus the disposable income of his or her  
25 spouse, and the disposable income of each cotenant occupying the  
26 residence for the assessment year, less amounts paid by the person  
27 claiming the exemption or his or her spouse during the assessment year  
28 for:

29 (a) Drugs supplied by prescription of a medical practitioner  
30 authorized by the laws of this state or another jurisdiction to issue  
31 prescriptions; and

32 (b) The treatment or care of either person received in the home or  
33 in a nursing home.

34 (5) "Disposable income" means adjusted gross income as defined in  
35 the federal internal revenue code, as amended prior to January 1, 1989,  
36 or such subsequent date as the director may provide by rule consistent  
37 with the purpose of this section, plus all of the following items to  
38 the extent they are not included in or have been deducted from adjusted  
39 gross income:

1 (a) Capital gains, other than gain excluded from income under  
2 section 121 of the federal internal revenue code to the extent it is  
3 reinvested in a new principal residence;  
4 (b) Amounts deducted for loss;  
5 (c) Amounts deducted for depreciation;  
6 (d) Pension and annuity receipts;  
7 (e) Military pay and benefits other than attendant-care and  
8 medical-aid payments;  
9 (f) Veterans benefits other than attendant-care and medical-aid  
10 payments;  
11 (g) Federal social security act and railroad retirement benefits;  
12 (h) Dividend receipts; and  
13 (i) Interest received on state and municipal bonds.  
14 (6) "Cotenant" means a person who resides with the person claiming  
15 the exemption and who has an ownership interest in the residence.

16 NEW SECTION. **Sec. 32.** Section 5 of this act expires July 1, 2003.

17 NEW SECTION. **Sec. 33.** Section 6 of this act takes effect July 1,  
18 2003.

19 NEW SECTION. **Sec. 34.** Section 18 of this act applies  
20 retroactively to July 1, 2001.

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