

Chapter 82.08 RCW
RETAIL SALES TAX

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Changes in tax law—Liability: RCW 82.08.064, 82.14.055, and 82.32.430.

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

Direct pay permits: RCW 82.32.087.

Excise tax on real estate transfers: Chapters 82.45 and 82.46 RCW.

Local sales tax: Chapter 82.14 RCW.

RCW 82.08.010 Definitions. For the purposes of this chapter:

(1) (a) (i) "Selling price" includes "sales price." "Sales price" means the total amount of consideration, except separately stated trade-in property of like kind, including cash, credit, property, and services, for which tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a "retail sale" under RCW 82.04.050 are sold, leased, or rented, valued in money, whether received in money or otherwise. Except as otherwise provided in this subsection (1), no deduction from the total amount of consideration is allowed for the following: (A) The seller's cost of the property sold; (B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (D) delivery charges; and (E) installation charges.

(ii) When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department may prescribe;

(b) "Selling price" or "sales price" does not include: Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale; interest, financing, and carrying charges from credit extended on the sale of tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a retail sale in RCW 82.04.050, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and any taxes legally imposed directly on the consumer, or collected from the consumer pursuant to RCW 35.87A.010(2)(b), that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(c) "Selling price" or "sales price" includes consideration received by the seller from a third party if:

(i) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the criteria in this subsection (1)(c)(iv) is met:

(A) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(B) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount, however a "preferred customer" card that is available to any patron does not constitute membership in such a group; or

(C) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser;

(2)(a)(i) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer, purchaser, or consumer, whether as agent, broker, or principal, except as otherwise provided in this subsection (2).

(ii) "Seller" includes marketplace facilitators, whether making sales in their own right or facilitating sales on behalf of marketplace sellers.

(b)(i) "Seller" does not include:

(A) The state and its departments and institutions when making sales to the state and its departments and institutions; or

(B) A professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale at retail that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the seller and is responsible for collecting and remitting the tax imposed by this chapter.

(ii) For the purposes of this subsection (2)(b), the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

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

(4) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing;

(5) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or

to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address;

(6) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state," "within this state," "cannabis," "useable cannabis," and "cannabis-infused products" applies equally to the provisions of this chapter;

(7) For the purposes of the taxes imposed under this chapter and under chapter 82.12 RCW, "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and prewritten computer software;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(9) The definitions in RCW 82.04.192 apply to this chapter;

(10) For the purposes of the taxes imposed under this chapter and chapter 82.12 RCW, whenever the terms "property" or "personal property" are used, those terms must be construed to include digital goods and digital codes unless:

(a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property;

(b) It is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or

(c) To construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences; and

(11) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(12) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to cannabis, useable cannabis, or cannabis-infused products unless the applicable term is explicitly defined to include cannabis, useable cannabis, or cannabis-infused products.

(13)(a) "Affiliated person" means a person that, with respect to another person:

(i) Has an ownership interest of more than five percent, whether direct or indirect, in the other person; or

(ii) Is related to the other person because a third person, or group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than five percent, whether direct or indirect, in the related persons.

(b) For purposes of this subsection (13):

(i) "Ownership interest" means the possession of equity in the capital, the stock, or the profits of the other person; and

(ii) An indirect ownership interest in a person is an ownership interest in an entity that has an ownership interest in the person or in an entity that has an indirect ownership interest in the person.

(14) "Marketplace" means a physical or electronic place, including, but not limited to, a store, a booth, an internet website,

a catalog or a dedicated sales software application, where tangible personal property, digital codes and digital products, or services are offered for sale.

(15)(a) "Marketplace facilitator" means a person that:

(i) Contracts with sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products through a marketplace owned or operated by the person;

(ii) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between the buyer and seller. For purposes of this subsection, mere advertising does not constitute transmitting or otherwise communicating the offer or acceptance between the buyer and seller; and

(iii) Engages directly or indirectly, through one or more affiliated persons, in any of the following activities with respect to the seller's products:

(A) Payment processing services;

(B) Fulfillment or storage services;

(C) Listing products for sale;

(D) Setting prices;

(E) Branding sales as those of the marketplace facilitator;

(F) Taking orders; or

(G) Providing customer service or accepting or assisting with returns or exchanges.

(b)(i) "Marketplace facilitator" does not include:

(A) A person who provides internet advertising services, including listing products for sale, so long as the person does not also engage in the activity described in (a)(ii) of this subsection (15) in addition to any of the activities described in (a)(iii) of this subsection (15); or

(B) A person with respect to the provision of travel agency services or the operation of a marketplace or that portion of a marketplace that enables consumers to purchase transient lodging accommodations in a hotel or other commercial transient lodging facility.

(ii) The exclusion in this subsection (15)(b) does not apply to a marketplace or that portion of a marketplace that facilitates the retail sale of transient lodging accommodations in homes, apartments, cabins, or other residential dwelling units.

(iii) For purposes of this subsection (15)(b), the following definitions apply:

(A) "Hotel" has the same meaning as in RCW 19.48.010.

(B) "Travel agency services" means arranging or booking, for a commission, fee or other consideration, vacation or travel packages, rental car or other travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, or hotel or other lodging accommodations.

(16) "Marketplace seller" means a seller that makes retail sales through any marketplace operated by a marketplace facilitator, regardless of whether the seller is required to be registered with the department under RCW 82.32.030.

(17) "Remote seller" means any seller, including a marketplace facilitator, who does not have a physical presence in this state and makes retail sales to purchasers or facilitates retail sales on behalf of marketplace sellers. [2022 c 16 § 144; 2021 c 225 § 3; 2019 c 8 § 105; 2014 c 140 § 11; 2010 c 106 § 210; 2009 c 535 § 303; 2007 c 6 §

1302; (2007 c 6 § 1301 expired July 1, 2008); 2006 c 301 § 2; 2005 c 514 § 110; 2004 c 153 § 406; 2003 c 168 § 101; 1985 c 38 § 3; 1985 c 2 § 2 (Initiative Measure No. 464, approved November 6, 1984); 1983 1st ex.s. c 55 § 1; 1967 ex.s. c 149 § 18; 1963 c 244 § 1; 1961 c 15 § 82.08.010. Prior: (i) 1945 c 249 § 4; 1943 c 156 § 6; 1941 c 178 § 8; 1939 c 225 § 7; 1935 c 180 § 17; Rem. Supp. 1945 § 8370-17. (ii) 1935 c 180 § 20; RRS § 8370-20.]

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

Retroactive application—Effective date—2021 c 225: See notes following RCW 35.87A.010.

Effective date—2019 c 8 §§ 105, 301, 302, 401, and 704:

"Sections 105, 301, 302, 401, and 704 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2019." [2019 c 8 § 805.]

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

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

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

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

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

Expiration date—2007 c 6 § 1301: "Section 1301 of this act expires July 1, 2008." [2007 c 6 § 1706.]

Effective date—Act does not affect application of Title 50 or 51 RCW—2006 c 301: See notes following RCW 82.32.710.

Effective date—2005 c 514: See note following RCW 82.04.4272.

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

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

Effective dates—2003 c 168: "Sections 101 through 104, 201 through 216, 401 through 412, 501, 502, 601 through 604, 701 through 704, 801, 901, and 902 of this act take effect July 1, 2004. Sections 301 through 305 of this act take effect January 1, 2004." [2003 c 168 § 903.]

Part headings not law—2003 c 168: "Part headings used in this act are not any part of the law." [2003 c 168 § 901.]

Purpose—1985 c 2: "The purpose of this initiative is to reduce the amount on which sales tax is paid by excluding the trade-in value of certain property from the amount taxable." [1985 c 2 § 1 (Initiative Measure No. 464, approved November 6, 1984).]

Effective dates—1983 1st ex.s. c 55: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983, except that section 12 of this act shall take effect January 1, 1984, and shall be effective for property taxes levied in 1983, and due in 1984, and thereafter." [1983 1st ex.s. c 55 § 13.]

RCW 82.08.011 Retail car rental—Definition. For purposes of this chapter, "retail car rental" means renting a rental car, as defined in RCW 46.04.465, to a consumer. [1992 c 194 § 2.]

Effective dates—1992 c 194: See note following RCW 46.04.466.

RCW 82.08.015 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 189.]

RCW 82.08.020 Tax imposed—Retail sales—Retail car rental. (1) There is levied and collected a tax equal to six and five-tenths percent of the selling price on each retail sale in this state of:

- (a) Tangible personal property, unless the sale is specifically excluded from the RCW 82.04.050 definition of retail sale;
- (b) Digital goods, digital codes, and digital automated services, if the sale is included within the RCW 82.04.050 definition of retail sale;
- (c) Services, other than digital automated services, included within the RCW 82.04.050 definition of retail sale;
- (d) Extended warranties to consumers; and
- (e) Anything else, the sale of which is included within the RCW 82.04.050 definition of retail sale.

(2) There is levied and collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include:

(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of cannabis;

(b) Off-road vehicles as defined in RCW 46.04.365;

(c) Nonhighway vehicles as defined in RCW 46.09.310; and

(d) Snowmobiles as defined in RCW 46.04.546.

(5) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section must be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection must be deposited in the performance audits of government account created in RCW 43.09.475.

(6) The taxes imposed under this chapter apply to successive retail sales of the same property.

(7) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020. [2022 c 16 § 145; (2020 c 1 § 7 (Initiative Measure No. 976, approved November 5, 2019)); 2016 c 1 § 2 (Initiative Measure No. 1366, approved November 3, 2015); 2014 c 140 § 12; 2011 c 171 § 120; 2010 c 106 § 212; (2010 c 106 § 211 expired January 1, 2011); (2009 c 469 § 802 expired January 1, 2011); 2006 c 1 § 3 (Initiative Measure No. 900, approved November 8, 2005); 2003 c 361 § 301; 2000 2nd sp.s. c 4 § 1; 1998 c 321 § 36 (Referendum Bill No. 49, approved November 3, 1998); 1992 c 194 § 9; 1985 c 32 § 1. Prior: 1983 2nd ex.s. c 3 § 62; 1983 2nd ex.s. c 3 § 41; 1983 c 7 § 6; 1982 1st ex.s. c 35 § 1; 1981 2nd ex.s. c 8 § 1; 1977 ex.s. c 324 § 2; 1975-'76 2nd ex.s. c 130 § 1; 1971 ex.s. c 281 § 9; 1969 ex.s. c 262 § 31; 1967 ex.s. c 149 § 19; 1965 ex.s. c 173 § 13; 1961 c 293 § 6; 1961 c 15 § 82.08.020; prior: 1959 ex.s. c 3 § 5; 1955 ex.s. c 10 § 2; 1949 c 228 § 4; 1943 c 156 § 5; 1941 c 76 § 2; 1939 c 225 § 10; 1935 c 180 § 16; Rem. Supp. 1949 § 8370-16.]

Reviser's note: (1) This section was previously amended by Initiative Measure No. 976 (chapter 1, Laws of 2020). The Washington state supreme court ruled in *Garfield Cty. Transp. Auth. v. State*, No. 98320-8, 2020 Wash. LEXIS 592 (Oct. 15, 2020) that Initiative Measure No. 976 is in violation of Article II, section 19 of the state Constitution and is therefore void in its entirety. This section is published without the amendment contained in Initiative Measure No. 976.

(2) The Washington state supreme court ruled in *Lee v. State*, 185 Wn.2d 608, 374 P.3d 157 (2016) that Initiative Measure No. 1366 (chapter 1, Laws of 2016) is in violation of the single-subject rule of Article II, section 19 of the state Constitution and is therefore void in its entirety. This section is published without the amendment contained in Initiative Measure No. 1366.

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

Contingent effective date—2016 c 1 § 2 (Initiative Measure No. 1366): "(1) Section 2 of this act takes effect April 15, 2016, unless the contingency in subsection (2) of this section occurs.

(2) If the legislature, prior to April 15, 2016, refers to the ballot for a vote a constitutional amendment requiring two-thirds legislative approval or voter approval to raise taxes as defined by voter-approved Initiatives 960, 1053, and 1185 and section 6 of this act and majority legislative approval for fee increases as required by voter-approved Initiatives 960, 1053, and 1185 and codified in RCW 43.135.055 and further defined by subsection (a) of this section, section 2 of this act expires on April 14, 2016.

(a) [(3)] "Majority legislative approval for fee increases" means only the legislature may set a fee increase's amount and must list it in a bill so it can be subject to the ten-year cost projection and other accountability procedures required by RCW 43.135.031." [2016 c 1 § 3 (Initiative Measure No. 1366, approved November 3, 2015).]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Effective date—2010 c 106 § 212: "Section 212 of this act takes effect January 1, 2011." [2010 c 106 § 409.]

Expiration date—2010 c 106 § 211: "Section 211 of this act expires January 1, 2011." [2010 c 106 § 408.]

Expiration date—2009 c 469 § 802: "Section 802 of this act expires January 1, 2011." [2009 c 469 § 904.]

Effective date—2009 c 469 §§ 801 and 802: "Sections 801 and 802 of this act take effect August 1, 2009." [2009 c 469 § 903.]

Short title—Effective date—2006 c 1 (Initiative Measure No. 900): See RCW 43.09.471.

Policies and purposes—Construction—Severability—Part headings not law—2006 c 1 (Initiative Measure No. 900): See notes following RCW 43.09.470.

Effective dates—2003 c 361: "Sections 301 through 602 of this act take effect July 1, 2003, and sections 201 and 202 of this act take effect August 1, 2003." [2003 c 361 § 703.]

Findings—2003 c 361: See note following RCW 82.38.030.

Application—2000 2nd sp.s. c 4 § 1: "Section 1 of this act applies to taxes collected on and after December 31, 1999." [2000 2nd sp.s. c 4 § 34.]

Effective date—2000 2nd sp.s. c 4 §§ 1-3, 20: "Sections 1 through 3 and 20 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 2, 2000]." [2000 2nd sp.s. c 4 § 35.]

Purpose—Severability—1998 c 321: See notes following RCW 82.14.045.

Contingent effective dates—1998 c 321 §§ 23-42: See note following RCW 35.58.410.

Legislative intent—1992 c 194: "The legislature intends to exempt rental cars from state and local motor vehicle excise taxes, and to impose additional sales and use taxes in lieu thereof. These additional sales and use taxes are intended to provide as much revenue to the funds currently receiving motor vehicle excise tax revenue, including the transportation funds and the general fund, as each fund would have received if the motor vehicle excise tax exemptions had not been enacted. Revenues from these additional sales and use taxes are intended to be distributed in the same manner as the motor vehicle excise tax revenues they replace." [1992 c 194 § 4.]

Effective dates—1992 c 194: See note following RCW 46.04.466.

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

Construction—1983 c 7: "This act shall not be construed as affecting any existing right acquired, or liability or obligation incurred under the sections amended in this act, nor any rule, regulation, or order adopted, nor any proceeding instituted, under those sections." [1983 c 7 § 34.]

Severability—1983 c 7: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 7 § 35.]

Effective dates—1983 c 7: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 1, 1983, except as follows:

(1) Sections 9 through 22, and 25 through 31 of this act shall take effect June 30, 1983.

(2) Sections 23 and 24 of this act shall take effect January 1, 1984, for taxes first due in 1984 and thereafter.

The department of revenue and the department of licensing shall immediately take necessary steps to ensure that all sections of this act are properly implemented on their effective dates. The additional taxes and tax rate changes imposed under this act shall take effect on the dates designated in this act notwithstanding the date this act becomes law under Article III, section 12 of the state Constitution." [1983 c 7 § 37.]

Severability—1982 1st ex.s. c 35: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 35 § 47.]

Effective dates—Expiration date—1982 1st ex.s. c 35: "This act is necessary for the immediate preservation of the public peace,

health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except that sections 28, 29, and 30 of this act shall take effect on May 1, 1982, sections 33 and 34 of this act shall take effect on July 1, 1983, and sections 35 through 38 of this act shall take effect on January 1, 1983.

Sections 28 and 29 of this act shall expire on July 1, 1983. The additional taxes imposed under this act shall take effect on the dates designated in this act notwithstanding the date this act becomes law under Article III, section 12 of the state Constitution." [1982 1st ex.s. c 35 § 48.]

Effective date—1975-'76 2nd ex.s. c 130: "This 1976 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately: PROVIDED, That the provisions of this 1976 amendatory act shall be null and void in the event chapter . . . (*Substitute Senate Bill No. 2778), Laws of 1975-'76 2nd ex. sess. is approved and becomes law." [1975-'76 2nd ex.s. c 130 § 4.]

***Reviser's note:** "Substitute Senate Bill No. 2778" failed to become law.

High capacity transportation systems—Sales and use tax: RCW 81.104.170.

Manufacturers, study: 1994 c 66.

RCW 82.08.0201 Rental cars—Estimate of tax revenue. Before January 1, 1994, and January 1st of each odd-numbered year thereafter: The department of licensing, with the assistance of the department of revenue, must provide the office of financial management and the fiscal committees of the legislature with an updated estimate of the amount of revenue attributable to the taxes imposed in RCW 82.08.020(2). [2020 c 139 § 10; 1992 c 194 § 10.]

Effective dates—1992 c 194: See note following RCW 46.04.466.

RCW 82.08.0202 Retail sales of linen and uniform supply services. For purposes of this chapter, a retail sale of linen and uniform supply services is deemed to occur at the place of delivery to the customer. "Linen and uniform supply services" means the activity of providing customers with a supply of clean linen, towels, uniforms, gowns, protective apparel, clean room apparel, mats, rugs, and similar items, whether ownership of the item is in the person operating the linen and uniform supply service or in the customer. The term includes supply services operating their own cleaning establishments as well as those contracting with other laundry or dry cleaning businesses. [2001 c 186 § 2.]

Finding—Purpose—2001 c 186: "The legislature finds that because of the mixed retailing nature of linen and uniform supply services, they have been incorrectly sited for tax purposes. As a result, some companies that perform some activities related to this activity

outside the state of Washington have not been required to collect retail sales taxes upon linen and uniform supply services provided to Washington customers. The activity has aspects of both the rental of tangible personal property and retail services related to tangible personal property. This error in tax treatment provides an incentive for businesses to locate some of their functions out of state. In-state businesses cannot compete if their out-of-state competitors are not required to collect sales tax for services provided to the same customers.

The purpose of this act is to clarify the taxable situs and nature of linen and uniform supply services." [2001 c 186 § 1.]

Effective date—2001 c 186: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 186 § 4.]

RCW 82.08.0203 Exemptions—Trail grooming services. The tax levied by RCW 82.08.020 does not apply to sales of trail grooming services to the state of Washington or nonprofit corporations organized under chapter 24.03A RCW. For the purposes of this section, "trail grooming" means the activity of snow compacting, snow redistribution, or snow removal on state-owned or privately owned trails. [2021 c 176 § 5248; 2008 c 260 § 1.]

Effective date—2021 c 176: See note following RCW 24.03A.005.

RCW 82.08.0205 Exemptions—Waste vegetable oil. (1) The tax levied by RCW 82.08.020 does not apply to sales of waste vegetable oil that is used by a person in the production of biodiesel for personal use.

(2) This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

(3) For the purposes of this section, the following definitions apply:

(a) "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food processors; and

(b) "Personal use" means the person does not engage in the business of selling biodiesel at wholesale or retail. [2008 c 237 § 2.]

Effective date—2008 c 237: "This act takes effect July 1, 2008." [2008 c 237 § 4.]

RCW 82.08.0206 Credits—Working families—Eligible low-income persons—Penalties. (1) A working families' tax credit, in the form of a refund of tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales and use taxes paid under this chapter and chapter 82.12 RCW after January 1, 2022.

(2) For purposes of the credit in this section, the following definitions apply:

(a) (i) "Eligible low-income person" means an individual who:

(A) Is eligible for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code; and

(B) Properly files a federal income tax return for the prior federal tax year, and was a Washington resident during the year for which the credit is claimed.

(ii) "Eligible low-income person" also means an individual who:

(A) Meets the requirements provided in (a)(i)(B) of this subsection; and

(B) Would otherwise qualify for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code except for the fact that the individual filed a federal income tax return for the prior federal tax year using a valid individual taxpayer identification number in lieu of a social security number, and the individual's spouse, if any, and all qualifying children, if any, have a valid individual taxpayer identification number or a social security number.

(b) "Income" means earned income as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code.

(c) "Individual" means an individual or an individual and that individual's spouse if they file a federal joint income tax return.

(d) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of June 9, 2022, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(e) "Maximum qualifying income" means the maximum federally adjusted gross income for the prior federal tax year.

(f) "Qualifying child" means a qualifying child as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code, except the child may have a valid individual taxpayer identification number in lieu of a social security number.

(g) "Washington resident" means an individual who is physically present and residing in this state for at least 183 days. "Washington resident" also includes an individual who is not physically present and residing in this state for at least 183 days but is the spouse of a Washington resident. For purposes of this subsection, "day" means a calendar day or any portion of a calendar day.

(3)(a) Except as provided in (b) and (c) of this subsection, for calendar year 2023 and thereafter, the working families' tax credit refund amount for the prior calendar year is:

(i) \$300 for eligible persons with no qualifying children;

(ii) \$600 for eligible persons with one qualifying child;

(iii) \$900 for eligible persons with two qualifying children; or

(iv) \$1,200 for eligible persons with three or more qualifying children.

(b) Except as provided in (f) of this subsection, the refund amounts provided in (a) of this subsection will be reduced, rounded to the nearest dollar, as follows:

(i) For eligible persons with no qualifying children, beginning at \$2,500 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(ii) For eligible persons with one qualifying child, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 12 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iii) For eligible persons with two qualifying children, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 15 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iv) For eligible persons with three or more qualifying children, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(c) If the refund for an eligible person as calculated in this section is greater than or equal to one cent, but less than \$50, the refund amount is \$50.

(d) The refund amounts in this section shall be adjusted for inflation every year beginning January 1, 2024, based upon changes in the consumer price index that are published by November 15th of the previous year for the most recent 12-month period. The adjusted refund amounts must be rounded to the nearest \$5.

(e) For purposes of this section, "consumer price index" means, for any 12-month period, the average consumer price index for that 12-month period for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(f) The percentage rate of remittance reductions in (b) of this subsection must be adjusted every year beginning January 1, 2023, based on calculations by the department that result in the minimum credit being received at the maximum qualifying income level.

(4) The working families' tax credit shall be administered as provided in this subsection.

(a) The refund paid under this section will be paid to eligible filers who apply pursuant to this subsection.

(i) Application must be made to the department in a form and manner determined by the department. If the application process is initially done electronically, the department must provide a paper application upon request. The application must include any information and documentation as required by the department.

(ii) Application for the refund under this section must be made in the year following the year for which the federal tax return was filed, but in no case may any refund be provided for any period before January 1, 2022. The department must use the eligible person's most recent federal tax filing for the tax year for which the refund is being claimed to calculate the refund.

(iii) A person may not claim a credit on behalf of a deceased individual. No individual may claim a credit under this section for any year in a disallowance period under Title 26 U.S.C. Sec. 32(k)(1) of the internal revenue code or for any year for which the individual is ineligible to claim the credit in Title 26 U.S.C. Sec. 32 of the internal revenue code by reason of Title 26 U.S.C. Sec. 32(k)(2) of the internal revenue code.

(b) The department shall protect the privacy and confidentiality of personal data of refund recipients in accordance with chapter 82.32 RCW.

(c) The department shall, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of, and requirements for, the credit provided in this section.

(d) The department must work with the internal revenue service to administer the credit on an automatic basis as soon as practicable.

(5) Receipt of the refund under this section may not be used in eligibility determinations for any state income support programs or in making public charge determinations.

(6) The department may adopt rules necessary to implement this section. This includes establishing a date by which applications will be accepted, with the aim of accepting applications as soon as possible.

(7) The department must review the application and determine eligibility for the working families' tax credit based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(8) If, upon review of internal revenue service data or other information obtained by the department, it appears that an individual received a refund that the individual was not entitled to, or received a larger refund than the individual was entitled to, the department may assess against the individual the overpaid amount. The department may also assess such overpaid amount against the individual's spouse if the refund in question was based on both spouses filing a joint federal income tax return for the year for which the refund was claimed.

(a) Interest as provided under RCW 82.32.050 applies to assessments authorized under this subsection (8) starting six months after the date the department issued the assessment until the amount due under this subsection (8) is paid in full to the department. Except as otherwise provided in this subsection, penalties may not be assessed on amounts due under this subsection.

(b) If an amount due under this subsection is not paid in full by the date due, or the department issues a warrant for the collection of amounts due under this subsection, the department may assess the applicable penalties under RCW 82.32.090. Penalties under this subsection (8)(b) may not be made due until six months after the department's issuance of the assessment.

(c) If the department finds by clear, cogent, and convincing evidence that an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent claim for refund under this section, the department must assess a penalty of 50 percent of the overpaid amount. This penalty is in addition to any other applicable penalties assessed in accordance with (b) of this subsection (8).

(9) If, within the period allowed for refunds under RCW 82.32.060, the department finds that an individual received a lesser refund than the individual was entitled to, the department must remit the additional amount due under this section to the individual.

(10) Interest does not apply to refunds provided under this section.

(11) Chapter 82.32 RCW applies to the administration of this section. [2022 c 41 § 1; 2022 c 33 § 1; 2021 c 195 § 2; 2008 c 325 § 2.]

Reviser's note: This section was amended by 2022 c 33 § 1 and by 2022 c 41 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—2021 c 195: "(1) Many Washington families do not earn enough annually to keep pace with increasing health care, child care, housing, and other essential expenses.

(2) Amidst rising cost of living across the state, the regressive nature of Washington's tax code puts an additional strain on households already struggling to meet their basic needs. Washington's tax system is the most upside down and regressive in the nation, allowing those who earn the most to pay the least percentage of their income in taxes. As a percentage of household income, low-income Washingtonians, who are disproportionately Black, American Indian and Alaska Native, Latinx, Native Hawaiian and Pacific Islander, and multiracial Washingtonians, pay six times more in taxes than our wealthiest residents.

(3) Eligibility for the working families' tax exemption is based on eligibility for the federal earned income tax credit, a refundable tax credit for working individuals and families whose earnings are below an income threshold. Since its establishment in 1975, the earned income tax credit has increased family income, reduced child poverty, and improved health, educational, and career outcomes for children in low-income families. Taxpayers filing with an individual tax identification number and their families, however, are excluded from receiving the federal credit and its corollary benefits to health and well-being, despite paying local, state, and federal taxes.

(4) Since its establishment in 1975, the earned income tax credit has also had a positive impact on local businesses because it puts more money in the hands of low-income working people who spend the money on immediate needs, such as groceries, transportation, rent, and health care. The credit has been shown to have a multiplier effect to support local businesses, generating an estimated \$1.50 to \$2.00 in local economic activity for every dollar received by beneficiaries.

(5) Therefore, it is the public policy objective of the legislature to stimulate local economic activity, advance racial equity, and promote economic stability and well-being for lower-income working people, including individual tax identification number filers, by updating and simplifying the structure of the working families' tax exemption." [2021 c 195 § 1.]

Automatic expiration date exemption—2021 c 195: "The provisions of RCW 82.32.805 do not apply to this act." [2021 c 195 § 3.]

Tax preference performance statement—2021 c 195: "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 195, Laws of 2021. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for the preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to allow low-income and middle-income workers to recover some or all of the sales tax they pay to support state and local government as a way to increase their economic security and to decrease the regressivity of our state tax code. It is the legislature's intent to provide a

sales and use tax credit, in the form of a remittance, to low-income and middle-income working families.

(4) The joint legislative audit and review committee shall review this preference in 2028 and every 10 years thereafter. If a review finds that the working families' tax credit does not provide meaningful financial relief to low-income and middle-income households, this act shall expire at the end of the calendar year two years after the adoption of the final report containing that finding. In its review of the program, the joint legislative audit and review committee should use at least the following metrics: Size of the benefit per household, number of household beneficiaries statewide, and demographic information of beneficiaries to include family size, income level, race and ethnicity, and geographic location.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the remittance data prepared by the department of revenue." [2021 c 195 § 4.]

Findings—Intent—2008 c 325: "The legislature finds that many Washington families do not earn enough annually to keep pace with increasing health care, child care, and work-related expenses. Because the state relies so heavily on sales tax revenue, families in Washington with the lowest incomes pay proportionately four or five times as much in state taxes as the most affluent households. The legislature finds that higher-income families are able to recover some of the sales and use taxes that they pay to support state and local government through the federal income tax deduction for sales and use taxes, but that lower-income people, who are not able to itemize, receive no benefit. Therefore, it is the intent of the legislature to provide a sales and use tax exemption, in the form of a remittance, to lower-income working families in Washington, and to use the federal earned income tax credit as a proxy for the amount of sales tax paid." [2008 c 325 § 1.]

RCW 82.08.02061 Exemptions—Working families—Report to legislature. The department must assess the implementation of the working families' tax exemption in a report to the legislature to identify administrative or resource issues that require legislative action. The department must submit the report to the finance committee of the house of representatives and the ways and means committee of the senate within eighteen months of the implementation of the program. [2014 c 97 § 317; 2008 c 325 § 3.]

Findings—Intent—2008 c 325: See note following RCW 82.08.0206.

RCW 82.08.0207 Exemptions—Adapted housing—Disabled veterans—Construction. (1) An eligible purchaser who has paid the tax levied by RCW 82.08.020 on materials incorporated into, and labor and services rendered in respect to, adapted housing is eligible for an exemption from all or a portion of those taxes in the form of a remittance. The total amount of a remittance that an eligible purchaser may receive under this section and/or RCW 82.12.0207 is limited to two thousand five hundred dollars for each adapted housing

project. The remittance under this section is for the state portion of the sales tax only.

(2) (a) An eligible purchaser claiming an exemption from tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020 on such purchases eligible for the remittance. The eligible purchaser may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020 on such purchases, subject to the limits in subsections (1) and (3) of this section. As part of the application, the eligible purchaser must provide proof of eligibility for the remittance in the form of a copy of the grant award letter from the United States department of veterans affairs, construction contracts for adapted housing, and invoices for purchases qualifying for a remittance under this section.

(b) An eligible purchaser may not apply for more than one remittance under this section per calendar quarter.

(c) The department must on a quarterly basis remit exempted amounts to eligible purchasers whose applications were approved by the department during the previous quarter.

(3) (a) The remittance under this section is only available on a first-in-time basis. The department must keep a running total of all approved remittances under this section and/or RCW 82.12.0207 during each fiscal year. The department may not allow any remittance that would cause the total amount of remittances allowed under this section and/or RCW 82.12.0207 to exceed one hundred twenty-five thousand dollars in any fiscal year, unless additional amounts are appropriated for this specific purpose.

(b) The department must provide notification on its website monthly of the amount remaining before the statewide annual limit in this subsection is reached.

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

(a) "Adapted housing" means a construction project that has been approved by the United States department of veterans affairs as part of the specially adapted housing grant program or the special housing adaptation grant program to modify or construct a home so that it can accommodate the needs of a disabled or severely disabled veteran.

(b) "Eligible purchaser" means a disabled or severely disabled veteran who has received either a specially adapted housing grant or a special housing adaptation grant from the United States department of veterans affairs.

(c) "Special housing adaptation" has the same meaning, eligibility requirements, and restrictions as "special home adaptation grant" in 38 C.F.R. 3.809a, as of July 1, 2016.

(d) "Specially adapted housing" has the same meaning, eligibility requirements, and restrictions as in 38 C.F.R. 3.809, as of July 1, 2016. [2017 c 176 § 2.]

Findings—Intent—2017 c 176: "(1) (a) The legislature finds that it is important to recognize the service of veterans and to acknowledge the continued sacrifice of those veterans who have service-connected physical disabilities. The legislature further finds that many disabled veterans often need customized, accessible housing in order to be self-sufficient and to maintain a high quality of life. The legislature further finds that disabled veterans have higher poverty rates than disabled nonveterans. The legislature further finds that the federal government provides a grant to assist disabled

veterans with the costs of constructing, modifying, or adapting their homes, but that thousands of these dollars end up covering the sales or use tax owed on these construction projects. The legislature further finds that this results in a shift of cost to the same population of disabled veterans whose burden the federal grant program is intended to ease.

(b) It is the legislature's intent to provide specific financial relief for disabled veterans by providing a sales and use tax exemption in the form of a remittance for the construction of adapted housing for disabled veterans who have been awarded a federal grant to modify their homes.

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

(b) The legislature categorizes the tax preference in section 2 of this act as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(c) To measure the effectiveness of this act in achieving the specific public policy objective described in subsection (1) of this section, the joint legislative audit and review committee must, at minimum, evaluate the following:

(i) The number of qualifying adapted housing projects, as reported to the department of revenue through the remittance application process on an annual basis; and

(ii) The total amount of adapted housing grants awarded to veterans, as reported by the United States department of veterans affairs.

(d) In addition to the data sources described under this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under this subsection.

(e) The joint legislative audit and review committee must review the tax preferences provided in this act as part of its normal review process of tax preferences." [2017 c 176 § 1.]

Application—2017 c 176: "This act applies to sales or uses that occur on or after August 1, 2017." [2017 c 176 § 5.]

RCW 82.08.0208 Exemptions—Digital codes. (1) The tax imposed by RCW 82.08.020 does not apply to the sale of a digital code for one or more digital products if the sale of the digital products to which the digital code relates is exempt from the tax levied by RCW 82.08.020.

(2)(a) The tax imposed by RCW 82.08.020 does not apply to a business or other organization for the purpose of making the digital good or digital automated service, including a digital good or digital automated service acquired through the use of a digital code, or service defined as a retail sale in RCW 82.04.050(6)(c), available free of charge for the use or enjoyment of the general public. The exemption provided in this subsection (2) does not apply unless the purchaser has the legal right to broadcast, rebroadcast, transmit,

retransmit, license, relicense, distribute, redistribute, or exhibit the product, in whole or in part, to the general public.

(b) For purposes of this subsection (2), "general public" means all persons and not limited or restricted to a particular class of persons, except that the general public includes:

(i) A class of persons that is defined as all persons residing or owning property within the boundaries of a state, political subdivision of a state, or a municipal corporation; and

(ii) With respect to libraries, authorized library patrons.

(3) (a) The tax imposed by RCW 82.08.020 does not apply to the sale to a business of digital goods, and services rendered in respect to digital goods, if the digital goods and services rendered in respect to digital goods are purchased solely for business purposes. The exemption provided by this subsection (3) also applies to the sale to a business of a digital code if all of the digital goods to be obtained through the use of the code will be used solely for business purposes.

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

(i) "Business purposes" means any purpose relevant to the business needs of the taxpayer claiming an exemption under this subsection (3). Business purposes do not include any personal, family, or household purpose. The term also does not include any activity conducted by a government entity as that term is defined in RCW 7.25.005; and

(ii) "Services rendered in respect to digital goods" means those services defined as a retail sale in RCW 82.04.050(2)(g).

(4) (a) The tax imposed by RCW 82.08.020 does not apply to the sale of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) to a buyer that provides the seller with an exemption certificate claiming multiple points of use. An exemption certificate claiming multiple points of use must be in a form and contain such information as required by the department.

(b) A buyer is entitled to use an exemption certificate claiming multiple points of use only if the buyer is a business or other organization and the digital goods or digital automated services purchased, or the digital goods or digital automated services to be obtained by the digital code purchased, or the prewritten computer software or services defined as a retail sale in RCW 82.04.050(6)(c) purchased will be concurrently available for use within and outside this state. A buyer is not entitled to use an exemption certificate claiming multiple points of use for digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) purchased for personal use.

(c) A buyer claiming an exemption under this subsection (4) must report and pay the tax imposed in RCW 82.12.020 and any local use taxes imposed under the authority of chapter 82.14 RCW and RCW 81.104.170 directly to the department in accordance with RCW 82.12.0208 and 82.14.457.

(d) For purposes of this subsection (4), "concurrently available for use within and outside this state" means that employees or other agents of the buyer may use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(c) simultaneously from one or more locations within this state and one or more locations outside this

state. A digital code is concurrently available for use within and outside this state if employees or other agents of the buyer may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state.

(5) (a) Except as provided in (b) of this subsection (5), the tax imposed by RCW 82.08.020 does not apply to sales of audio or video programming by a radio or television broadcaster.

(b) (i) Except as provided in (b) (ii) of this subsection (5), the exemption provided in this subsection (5) does not apply in respect to programming that is sold on a pay-per-program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service.

(ii) The exemption provided in this subsection (5) applies to the sale of programming described in (b) (i) of this subsection (5) if the seller is subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a) on the gross revenue derived from the sale.

(c) For purposes of this subsection (5), "radio or television broadcaster" includes satellite radio providers, satellite television providers, cable television providers, and providers of subscription internet television.

(6) Sellers making tax-exempt sales under subsection (2) or (3) of this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. [2020 c 139 § 11; 2009 c 535 § 501.]

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

RCW 82.08.0209 Exemptions—Qualifying grant. (1) The tax levied by RCW 82.08.020 does not apply to a grantee's receipt of a qualifying grant that is exempt from business and occupation tax under RCW 82.04.767.

(2) Nothing in this section may be construed to:

(a) Imply that the tax levied by RCW 82.08.020 applies to any circumstance not described in subsection (1) of this section; or

(b) Provide an exemption from the tax levied by RCW 82.08.020 for the grantee's use of a qualifying grant to acquire products in a transaction meeting the definition of "retail sale" in RCW 82.04.050.

(3) For purposes of this section, the following definitions apply:

(a) "Grantee" means the recipient of a qualifying grant.

(b) "Product" means the same as in RCW 82.32.023.

(c) "Qualifying grant" means the same as in RCW 82.04.767. [2021 c 4 § 4.]

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

RCW 82.08.0251 Exemptions—Casual and isolated sales. The tax levied by RCW 82.08.020 shall not apply to casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under chapters 82.04 or 82.16 RCW: PROVIDED, That the exemption provided by this section shall not be construed as providing any exemption from the tax imposed by chapter 82.12 RCW. [1980 c 37 § 19. Formerly RCW 82.08.030(1).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0252 Exemptions—Sales by persons taxable under chapter 82.16 RCW. The tax levied by RCW 82.08.020 shall not apply to sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under chapter 82.16 RCW, when the gross proceeds from such sales must be included in the measure of the tax imposed under said chapter. [1980 c 37 § 20. Formerly RCW 82.08.030(2).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.02525 Exemptions—Sale of copied public records by state and local agencies. The tax levied by RCW 82.08.020 does not apply to the sale of public records by state and local agencies, as the terms are defined in RCW 42.56.010, that are copied or transferred electronically under a request for the record for which no fee is charged other than a statutorily set fee or a fee to reimburse the agency for its actual costs directly incident to the copying. A request for a record includes a request for a document not available to the public but available to those persons who by law are allowed access to the document, such as requests for fire reports, law enforcement reports, taxpayer information, and academic transcripts. [2011 c 60 § 49; 2009 c 535 § 505; 1996 c 63 § 1.]

Effective date—2011 c 60: See RCW 42.17A.919.

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

Effective date—1996 c 63: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1996." [1996 c 63 § 3.]

RCW 82.08.0253 Exemptions—Sale and distribution of newspapers.

- (1) The tax levied by RCW 82.08.020 does not apply to:
 - (a) The distribution and newsstand sale of printed newspapers;and
 - (b) The sale of newspapers transferred electronically, provided that the electronic version of a printed newspaper:
 - (i) Shares content with the printed newspaper; and
 - (ii) Is prominently identified by the same name as the printed newspaper or otherwise conspicuously indicates that it is a complement to the printed newspaper.

(2) For purposes of this section, "printed newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper. [2009 c 535 § 506; 1980 c 37 § 21. Formerly RCW 82.08.030(3).]

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

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.02535 Exemptions—Sales and distribution of magazines or periodicals by subscription for fund-raising. The tax levied by RCW 82.08.020 does not apply to subscription sales of magazines or periodicals, including magazines and periodicals transferred electronically to the buyer, for the purposes of fund-raising by (1) educational institutions as defined in RCW 82.04.170, or (2) nonprofit organizations engaged in activities primarily for the benefit of boys and girls nineteen years and younger. [2009 c 535 § 507; 1995 2nd sp.s. c 8 § 1.]

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

Effective date—1995 2nd sp.s. c 8: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 2nd sp.s. c 8 § 2.]

RCW 82.08.02537 Exemptions—Sales of academic transcripts. The tax levied by RCW 82.08.020 does not apply to sales of academic transcripts by educational institutions, including academic transcripts transferred electronically. [2009 c 535 § 508; 1996 c 272 § 2.]

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

Effective date—1996 c 272: See note following RCW 82.04.399.

RCW 82.08.0254 Exemptions—Nontaxable sales. The tax levied by RCW 82.08.020 shall not apply to sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States. [1980 c 37 § 22. Formerly RCW 82.08.030(4).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0255 Exemptions—Sales of motor vehicle and special fuel—Conditions—Credit or refund of special fuel used outside this

state in interstate commerce. (1) The tax levied by RCW 82.08.020 does not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.38.080(1) (f) and (g) or 82.38.180(3) (b); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.38.080(1) (d) or 82.38.180(3) (a); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is taxable under chapter 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state is entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax must be claimed as a credit or refunded through the tax reports required under RCW 82.38.150. [2013 c 225 § 640; 2011 1st sp.s. c 16 § 4; 2007 c 223 § 9; 2005 c 443 § 5; 1998 c 176 § 4. Prior: 1983 1st ex.s. c 35 § 2; 1983 c 108 § 1; 1980 c 147 § 1; 1980 c 37 § 23. Formerly RCW 82.08.030(5).]

Effective date—2013 c 225: See note following RCW 82.38.010.

Effective date—2011 1st sp.s. c 16 §§ 1-15: See note following RCW 47.60.530.

Effective date—2007 c 223: See note following RCW 36.57A.220.

Finding—Intent—2005 c 443: "The legislature finds that a number of tax exemptions, deductions, credits, and other preferences have outlived their usefulness. State records show no taxpayers have claimed relief under these tax preferences in recent years. The intent of this act is to update and simplify the tax statutes by repealing these outdated tax preferences." [2005 c 443 § 1.]

Effective date—2005 c 443: "This act takes effect July 1, 2006." [2005 c 443 § 8.]

Intent—1983 1st ex.s. c 35: "It is the intent of the legislature that special fuel purchased in Washington upon which the special fuel tax has been paid, regardless of whether or not the tax is subsequently refunded or credited in whole or in part, should not be subject to the sales and use tax if the special fuel is transported and used outside the state by persons engaged in interstate commerce." [1983 1st ex.s. c 35 § 1.]

Intent—1980 c 37: See note following RCW 82.04.4281.

*Diesel, biodiesel, and aircraft fuel sales tax exemption for farmers:
RCW 82.08.865.*

RCW 82.08.0256 Exemptions—Sale of the operating property of a public utility to the state or a political subdivision. The tax levied by RCW 82.08.020 does not apply to sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any public service business as defined in RCW 82.16.010. For purposes of this section, "operating property" includes digital goods and digital codes. [2010 c 106 § 213; 2009 c 535 § 509; 1980 c 37 § 24. Formerly RCW 82.08.030(6).]

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

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

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.02565 Exemptions—Sales of machinery and equipment for manufacturing, research and development, or a testing operation—Labor and services for installation—Exemption certificate—Rules. (1) (a) The tax levied by RCW 82.08.020 does not apply to sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation or research and development operation, to sales to a person engaged in testing for a manufacturer or processor for hire of machinery and equipment used directly in a testing operation, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment.

(b) Except as provided in (c) of this subsection, sellers making tax-exempt sales under this section must obtain from the purchaser an exemption certificate in a form and manner prescribed by the department by rule. The seller must retain a copy of the certificate for the seller's files.

(c) (i) The exemption under this section is in the form of a remittance for a gas distribution business, as defined in RCW 82.16.010, claiming the exemption for machinery and equipment used for the production of compressed natural gas or liquefied natural gas for use as a transportation fuel.

(ii) A gas distribution business claiming an exemption from state and local tax in the form of a remittance under this section must pay the tax under RCW 82.08.020 and all applicable local sales taxes. Beginning July 1, 2017, the gas distribution business may then apply to the department for remittance of state and local sales and use taxes. A gas distribution business may not apply for a remittance more frequently than once a quarter. The gas distribution business must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The gas distribution business must retain, in adequate detail, records to enable the department to determine whether the business is entitled to an

exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(iii) The department must determine eligibility under this section based on the information provided by the gas distribution business, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying businesses who submitted applications during the previous quarter.

(iv) Beginning July 1, 2028, a gas distribution business may not apply for a refund under this section or RCW 82.12.02565.

(2) For purposes of this section and RCW 82.12.02565:

(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities, and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts. "Machinery and equipment" includes pollution control equipment installed and used in a manufacturing operation, testing operation, or research and development operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation, testing operation, or research and development operation. "Machinery and equipment" also includes digital goods.

(b) "Machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one year;

(iii) Buildings, other than machinery and equipment that is permanently affixed to or becomes a physical part of a building; and

(iv) Building fixtures that are not integral to the manufacturing operation, testing operation, or research and development operation that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical.

(c) Machinery and equipment is "used directly" in a manufacturing operation, testing operation, or research and development operation if the machinery and equipment:

(i) Acts upon or interacts with an item of tangible personal property;

(ii) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site or testing site;

(iii) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property at the site or away from the site;

(iv) Provides physical support for or access to tangible personal property;

(v) Produces power for, or lubricates machinery and equipment;

(vi) Produces another item of tangible personal property for use in the manufacturing operation, testing operation, or research and development operation;

(vii) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported; or

(viii) Is integral to research and development as defined in RCW 82.63.010.

(d) "Manufacturer" means a person that qualifies as a manufacturer under RCW 82.04.110. "Manufacturer" also includes a person that:

(i) Prints newspapers or other materials; or

(ii) Is engaged in the development of prewritten computer software that is not transferred to purchasers by means of tangible storage media.

(e) "Manufacturing" means only those activities that come within the definition of "to manufacture" in RCW 82.04.120 and are taxed as manufacturing or processing for hire under chapter 82.04 RCW, or would be taxed as such if such activity were conducted in this state or if not for an exemption or deduction. "Manufacturing" also includes printing newspapers or other materials. An activity is not taxed as manufacturing or processing for hire under chapter 82.04 RCW if the activity is within the purview of chapter 82.16 RCW.

(f) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. A manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the processed material leaves the manufacturing site. With respect to the production of class A or exceptional quality biosolids by a wastewater treatment facility, the manufacturing operation begins at the point where class B biosolids undergo additional processing to achieve class A or exceptional quality standards. Notwithstanding anything to the contrary in this section, the term also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include the preparation of food products on the premises of a person selling food products at retail.

(g) "Cogeneration" means the simultaneous generation of electrical energy and low-grade heat from the same fuel.

(h) "Research and development operation" means engaging in research and development as defined in RCW 82.63.010 by a manufacturer or processor for hire.

(i) "Testing" means activities performed to establish or determine the properties, qualities, and limitations of tangible personal property.

(j) "Testing operation" means the testing of tangible personal property for a manufacturer or processor for hire. A testing operation begins at the point where the tangible personal property enters the testing site and ends at the point where the tangible personal property leaves the testing site. The term also includes the testing of tangible personal property for use in that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include the testing of tangible personal property for use in the production of electricity by a light and power business as defined in RCW 82.16.010 or the preparation of food products on the premises of a person selling food products at retail.

(3) This section does not apply (a) to sales of machinery and equipment used directly in the manufacturing, research and development, or testing of cannabis, useable cannabis, or cannabis-infused products, or (b) to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving such machinery and equipment.

(4) The exemptions in this section do not apply to an ineligible person. For purposes of this subsection, the following definitions apply:

(a) "Affiliated group" means a group of two or more entities that are either:

(i) Affiliated as defined in RCW 82.32.655; or
(ii) Permitted to file a consolidated return for federal income tax purposes.

(b) "Ineligible person" means all members of an affiliated group if all of the following apply:

(i) At least one member of the affiliated group was registered with the department to do business in Washington state on or before July 1, 1981;

(ii) As of August 1, 2015, the combined employment in this state of the affiliated group exceeds forty thousand full-time and part-time employees, based on data reported to the employment security department by the affiliated group; and

(iii) The business activities of the affiliated group primarily include development, sales, and licensing of computer software and services. [2022 c 16 § 146; 2015 3rd sp.s. c 5 § 301. Prior: 2014 c 216 § 401; 2014 c 140 § 13; 2011 c 23 § 2; 2009 c 535 § 510; 1999 c 211 § 5; 1999 c 211 § 3; 1998 c 330 § 1; prior: 1996 c 247 § 2; 1996 c 173 § 3; 1995 1st sp.s. c 3 § 2.]

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

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

Application—2015 3rd sp.s. c 5: "Sections 301 and 302 of this act do not apply with respect to machinery and equipment, as defined in RCW 82.08.02565, first used by the taxpayer in this state before August 1, 2015." [2015 3rd sp.s. c 5 § 306.]

Conflicting laws—2015 3rd sp.s. c 5: "If RCW 82.08.02565, 82.12.02565, or 82.63.010 are amended by any other act enacted during the regular or any special session of the 2015 legislature, each amendment without reference to the other amendment or amendments of the same statute, the legislature intends for the amendments in this act to be deemed to not conflict in purpose with the amendments in any other such act for the purposes of RCW 1.12.025 and that the amendments in this act be given effect." [2015 3rd sp.s. c 5 § 305.]

Effective dates—2015 3rd sp.s. c 5: See note following RCW 82.08.052.

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

Findings—2011 c 23: "(1) In 1995, the legislature enacted a sales and use tax exemption for manufacturing machinery and equipment, commonly referred to as the "M&E exemption." The legislature finds that the purposes of this exemption were to encourage the growth and development of the state's private sector manufacturing industry and improve this state's ability to compete with other states for manufacturing investment. The legislature further finds that it was not the purpose of the M&E exemption to provide tax breaks to state agencies and institutions, nor to public utilities and other businesses with respect to machinery and equipment primarily used for activities that are taxable under the state public utility tax or are otherwise not considered to be manufacturing for business and occupation tax purposes.

(2) The legislature further finds that despite previous attempts at clarifying the M&E exemption, significant ambiguity persists, particularly with respect to the scope of the exemption. Such ambiguity results in costly appeals and litigation and may result in significant unanticipated revenue losses for the state and local governments.

(3) Therefore, the legislature finds it necessary to reaffirm its original intent in establishing the M&E exemption. The legislature declares that the amendments to the existing M&E exemption and to RCW 82.04.120 in this act are clarifying and, as such, apply retroactively as well as prospectively.

(4) The legislature finds that Washington is home to premier public research institutions. The legislature recognizes that the state's public universities provide cutting-edge research and development, which helps stimulate growth in the private sector and is vital to the economic well-being of our state. University research leads directly to new products, companies, production methods, and ways of organizing work. The legislature further recognizes that our public universities will play an important role in shaping the next generation of Washington industries, including biofuels and other renewable energy, global health, and advanced manufacturing. Therefore, because the amendments to the existing M&E exemption in this act clarify that state agencies and institutions are not eligible for the M&E exemption, this act provides a new, stand-alone sales and use tax exemption for machinery and equipment used primarily in technological research and development operations by the state's four-year institutions of higher education." [2011 c 23 § 1.]

Intent—2011 c 23: "The legislature declares that the only reason why the phrase "the production of electricity by a light and power business as defined in RCW 82.16.010" was deleted from the definition of "manufacturing operation" in RCW 82.08.02565(2)(f) in section 2 of this act is because that language is superfluous." [2011 c 23 § 7.]

Application—2011 c 23: "Sections 2 and 3 of this act apply both prospectively and retroactively to any tax period open for assessment or refund of taxes." [2011 c 23 § 9.]

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

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

Finding—Intent—1999 c 211: "The legislature finds that the application of the manufacturer's machinery and equipment sales and use tax exemption has, in some instances, been difficult and confusing for taxpayers, and included difficult reporting and recordkeeping requirements. In this act, it is the intent of the legislature to make clear its intent for the application of the exemption, and to extend the exemption to the purchase and use of machinery and equipment for businesses that perform testing of manufactured goods for manufacturers or processors for hire." [1999 c 211 § 1.]

Intent—1999 c 211 §§ 2 and 3: See note following RCW 82.04.120.

Effective date—1999 c 211 §§ 1-4: See note following RCW 82.04.120.

Findings—Intent—1996 c 247: See note following RCW 82.08.02566.

Findings—Intent—1996 c 173: "The legislature finds that the health, safety, and welfare of the people of the state of Washington are heavily dependent upon the continued encouragement, development, and expansion of opportunities for family wage employment in the state's manufacturing industries.

The legislature also finds that sales and use tax exemptions for manufacturing machinery and equipment enacted by the 1995 legislature have improved Washington's ability to compete with other states for manufacturing investment, but that additional incentives for manufacturers need to be adopted to solidify and enhance the state's competitive position.

The legislature intends to accomplish this by extending the current manufacturing machinery and equipment exemptions to allow a sales tax exemption for labor and service charges for repairing, cleaning, altering, or improving machinery and equipment, and a sales and use tax exemption for repair and replacement parts with a useful life of one year or more." [1996 c 173 § 1.]

Findings—1995 1st sp.s. c 3: "The legislature finds and declares that:

(1) The health, safety, and welfare of the people of the state of Washington are heavily dependent upon the continued encouragement, development, and expansion of opportunities for family wage employment in our state's private sector;

(2) The state's private sector must be encouraged to commit to continuous improvement of process, products, and services and to deliver high-quality, high-value products through technological innovations and high-performance work organizations;

(3) The state's opportunities for increased economic dealings with other states and nations of the world are dependent on supporting and attracting a diverse, stable, and competitive economic base of private sector employers;

(4) The state's current policy of applying its sales and use taxes to machinery, equipment, and installation labor used in manufacturing, research and development, and other activities has placed our state's private sector at a competitive disadvantage with other states and serves as a significant disincentive to the continuous improvement of products, technology, and modernization necessary for the preservation, stabilization, and expansion of employment and to ensure a stable economy; and

(5) It is vital to the continued development of economic opportunity in this state, including the development of new businesses and the expansion or modernization of existing businesses, that the state of Washington provide tax incentives to entities making a commitment to sites and operations in this state." [1995 1st sp.s. c 3 § 1.]

Effective date—1995 1st sp.s. c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 1st sp.s. c 3 § 16.]

RCW 82.08.025651 Exemptions—Sales of machinery and equipment to public research institutions. (1)(a) The tax levied by RCW 82.08.020 does not apply to sales to a public research institution of machinery and equipment used primarily in a research and development operation, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment.

(b) Sellers making tax-exempt sales under this section must obtain from the purchaser an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) A public research institution claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) For purposes of this section, the following definitions apply:

(a) "Machinery and equipment" means those fixtures, pieces of equipment, digital goods, and support facilities that are an integral and necessary part of a research and development operation, and tangible personal property that becomes an ingredient or component of such fixtures, equipment, and support facilities, including repair parts and replacement parts. "Machinery and equipment" may include, but is not limited to: Computers; software; data processing equipment; laboratory equipment, instrumentation, and other devices used in a process of experimentation to develop a new or improved pilot model, plant process, product, formula, or invention; vats, tanks, and fermenters; operating structures; and all equipment used to control, monitor, or operate the machinery and equipment.

(b) "Machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one year;

(iii) Buildings; and

(iv) Those building fixtures that are not an integral and necessary part of a research and development operation and that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical.

(c) "Primarily" means greater than fifty percent as measured by time. If machinery and equipment is used simultaneously in a research and development operation and also for other purposes, the use for other purposes must be disregarded during the period of simultaneous use for purposes of determining whether the machinery and equipment is used primarily in a research and development operation.

(d) "Public research institution" means any college or university included within the definitions of state universities, regional universities, or state college in RCW 28B.10.016.

(e) "Research and development operation" means engaging in research and development as defined in RCW 82.63.010. [2020 c 139 § 12; 2011 c 23 § 4.]

Effective date—2011 c 23: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 11, 2011]." [2011 c 23 § 8.]

Construction—2011 c 23: "Nothing in this act may be construed as a repudiation of any provision of WAC 458-20-13601." [2011 c 23 § 11.]

Findings—2011 c 23: See note following RCW 82.08.02565.

RCW 82.08.02566 Exemptions—Sales of tangible personal property incorporated in prototype for parts, auxiliary equipment, and aircraft modification—Limitations on yearly exemption. (1) The tax levied by RCW 82.08.020 shall not apply to sales of tangible personal property incorporated into a prototype for aircraft parts, auxiliary equipment, or modifications; or to sales of tangible personal property that at one time is incorporated into the prototype but is later destroyed in the testing or development of the prototype.

(2) This exemption does not apply to sales to any person whose total taxable amount during the immediately preceding calendar year exceeds twenty million dollars. For purposes of this section, "total taxable amount" means gross income of the business and value of products manufactured, less any amounts for which a credit is allowed under RCW 82.04.440.

(3) State and local taxes for which an exemption is received under this section and RCW 82.12.02566 shall not exceed one hundred thousand dollars for any person during any calendar year.

(4) Sellers shall collect tax on sales subject to this exemption. The buyer shall apply for a refund directly from the department. [2003 c 168 § 208; 1997 c 302 § 1; 1996 c 247 § 4.]

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

Effective date—1997 c 302: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 302 § 3.]

Findings—Intent—1996 c 247: "The legislature finds that the health, safety, and welfare of the people of the state of Washington are heavily dependent upon the continued encouragement, development, and expansion of opportunities for family wage employment in the state's manufacturing industries.

The legislature also finds that sales and use tax exemptions for manufacturing machinery and equipment enacted by the 1995 legislature have improved Washington's ability to compete with other states for manufacturing investment, but that additional incentives for manufacturers need to be adopted to solidify and enhance the state's competitive position.

The legislature intends to accomplish this by extending the current manufacturing machinery and equipment exemptions to include machinery and equipment used for research and development with potential manufacturing applications." [1996 c 247 § 1.]

RCW 82.08.025661 Exemptions—Aircraft maintenance repair—Building construction. (Expires January 1, 2027.) (1) Subject to the requirements of this section, the tax levied by RCW 82.08.020 does not apply to:

(a) Charges for labor and services rendered in respect to the constructing of new buildings, made to: (i) An eligible maintenance repair operator engaged in the maintenance of airplanes; or (ii) a port district, political subdivision, or municipal corporation, if the new building is to be leased to an eligible maintenance repair operator engaged in the maintenance of airplanes;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2) (a) The exemption in this section is in the form of a remittance. A buyer claiming an exemption from the tax in the form of a remittance under this section must pay all applicable state and local sales taxes imposed under RCW 82.08.020 and chapter 82.14 RCW on all purchases qualifying for the exemption.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer may on a quarterly basis submit an application, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

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

(d) A person may request a remittance for state sales and use taxes after the aircraft maintenance and repair station has been operationally complete for four years, but not sooner than December 1, 2021. However, the department may not remit the state portion of sales and use taxes if the person did not report at least one hundred average employment positions to the employment security department for October 1, 2020, through September 30, 2021, with an average annualized wage of eighty thousand dollars. A person must provide the department with the unemployment insurance number provided to the employment security department for the establishment.

(e) A person may request a remittance for local sales and use taxes on or after July 1, 2016.

(3) In order to qualify under this section before starting construction, the port district, political subdivision, or municipal corporation must have entered into an agreement with an eligible maintenance repair operator to build such a facility. A person claiming the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must file a complete annual report with the department under RCW 82.32.534.

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

(a) "Eligible maintenance repair operator" means a person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and located

in an international airport owned by a county with a population greater than one million five hundred thousand.

(b) "Operationally complete" means constructed to the point of being functionally capable of hosting the repair and maintenance of airplanes.

(5) This section expires January 1, 2027. [2022 c 56 § 5; 2016 c 191 § 2.]

Tax preference performance statement—2016 c 191 §§ 2 and 3: "(1) This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes the tax preference in sections 2 and 3 of this act as one intended to create jobs, as indicated in RCW 82.32.808(2) (c).

(3) At the end of the third year after an aircraft maintenance and repair station is operationally complete, the joint legislative audit and review committee must evaluate, at a minimum:

(a) Whether a taxpayer claiming this tax preference is on target to reach the employment levels and average annualized wages under section 2 of this act by the end of the aircraft maintenance and repair station's fourth year of operation; and

(b) Whether the average annualized wages for employees are on a par with industry standards for the sector.

(4) In order to obtain the data necessary to perform the review, the joint legislative audit and review committee may refer to the annual report and annual survey for tax preferences that federal aviation administration part 145 repair stations are required to file with the department [of revenue] and to employment data available from the employment security department." [2016 c 191 § 1.]

Effective date—2016 c 191: "This act takes effect July 1, 2016." [2016 c 191 § 6.]

RCW 82.08.02568 Exemptions—Sales of carbon and similar substances that become an ingredient or component of anodes or cathodes used in producing aluminum for sale. The tax levied by RCW 82.08.020 shall not apply to sales of carbon, petroleum coke, coal tar, pitch, and similar substances that become an ingredient or component of anodes or cathodes used in producing aluminum for sale. [1996 c 170 § 1.]

Effective date—1996 c 170: "This act shall take effect July 1, 1996." [1996 c 170 § 3.]

RCW 82.08.02569 Exemptions—Sales of tangible personal property related to a building or structure that is an integral part of a laser interferometer gravitational wave observatory. The tax levied by RCW 82.08.020 shall not apply to sales of tangible personal property to a consumer as defined in RCW 82.04.190(6) if the tangible personal property is incorporated into, installed in, or attached to a building

or other structure that is an integral part of a laser interferometer gravitational wave observatory on which construction is commenced before December 1, 1996. [1996 c 113 § 1.]

Effective date—1996 c 113: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 20, 1996]." [1996 c 113 § 3.]

RCW 82.08.0257 Exemptions—Auction sales of personal property used in farming. The tax levied by RCW 82.08.020 does not apply to auction sales made by or through auctioneers of personal property (including household goods) that has been used in conducting a farm activity, when the seller thereof is a farmer as defined in RCW 82.04.213 and the sale is held or conducted upon a farm and not otherwise. The exemption in this section does not apply to personal property used by the seller in the production of cannabis, useable cannabis, or cannabis-infused products. [2022 c 16 § 147; 2014 c 140 § 15; 2009 c 535 § 511; 1980 c 37 § 25. Formerly RCW 82.08.030(7).]

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

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

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.02573 Exemptions—Sales by a nonprofit organization for fund-raising activities. The tax levied by RCW 82.08.020 does not apply to a sale made by a nonprofit organization or a library, if the gross income from the sale is exempt under RCW 82.04.3651. [2010 c 106 § 214; 1998 c 336 § 3.]

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

Findings—1998 c 336: See note following RCW 82.04.3651.

RCW 82.08.0258 Exemptions—Sales to federal corporations providing aid and relief. The tax levied by RCW 82.08.020 shall not apply to sales to corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. [1980 c 37 § 26. Formerly RCW 82.08.030(8).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0259 Exemptions—Sales of livestock. The tax levied by RCW 82.08.020 shall not apply to sales of livestock, as defined in

RCW 16.36.005, for breeding purposes where the animals are registered in a nationally recognized breed association; or to sales of cattle and milk cows used on the farm. [2001 c 118 § 4; 1980 c 37 § 27. Formerly RCW 82.08.030(9).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.026 Exemptions—Sales of natural or manufactured gas.

The tax levied by RCW 82.08.020 shall not apply to sales of natural or manufactured gas that is taxable under RCW 82.12.022. [1994 c 124 § 8; 1989 c 384 § 4.]

Intent—Effective date—1989 c 384: See notes following RCW 82.12.022.

RCW 82.08.0261 Exemptions—Sales of personal property for use connected with private or common carriers in interstate or foreign commerce. (1) Except as otherwise provided in this section, the tax levied by RCW 82.08.020 does not apply to sales of tangible personal property (other than the type referred to in RCW 82.08.0262) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail, or water in interstate or foreign commerce. However, any actual use of such property in this state is, at the time of such actual use, subject to the tax imposed by chapter 82.12 RCW.

(2)(a) With respect to the sale of liquefied natural gas to a business operating as a private or common carrier by water in interstate or foreign commerce, the buyer is entitled to a partial exemption from the tax levied by RCW 82.08.020 and the associated local sales taxes. The exemption under this subsection (2) is for the state and local retail sales taxes on ninety percent of the amount of the liquefied natural gas transported and consumed outside this state by the buyer.

(b) Sellers are relieved of the obligation to collect the state and local retail sales taxes on sales eligible for the partial exemption provided in this subsection (2) to buyers who are registered with the department if the seller:

(i) Obtains a completed exemption certificate from the buyer, which must include the buyer's tax registration number with the department; or

(ii) Captures the relevant data elements as allowed under the streamlined sales and use tax agreement, including the buyer's tax registration number with the department.

(c) Buyers entitled to a partial exemption under this subsection (2) must either:

(i) Pay the full amount of state and local retail sales tax to the seller on the sale, including the amount of tax qualifying for exemption under this subsection (2), and then request a refund of the exempted portion of the tax from the department within the time allowed for making refunds under RCW 82.32.060; or

(ii) If the seller did not collect the retail sales tax from the buyer, remit to the department the state and local retail sales taxes due on all liquefied natural gas consumed in this state and on ten

percent of the liquefied natural gas that is transported and consumed outside of this state.

(3) This section does not apply to the sale of liquefied natural gas on or after July 1, 2028, for use as fuel in any marine vessel. [2014 c 216 § 405; 1980 c 37 § 28. Formerly RCW 82.08.030(10).]

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

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0262 Exemptions—Sales of airplanes, locomotives, railroad cars, or watercraft for use in interstate or foreign commerce or outside the territorial waters of the state or airplanes sold to United States government—Components thereof and of motor vehicles or trailers used for constructing, repairing, cleaning, etc.—Labor and services for constructing, repairing, cleaning, etc. (1) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of airplanes (i) to the United States government; (ii) for use in conducting interstate or foreign commerce by transporting property or persons for hire or by performing services under a contract with the United States government; or (iii) for use in providing intrastate air transportation by a commuter air carrier;

(b) Sales of locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting property or persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state;

(c) Sales of tangible personal property that becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the interstate commerce commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; and

(d) Sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving.

(2) The term "commuter air carrier" means an air carrier holding authority under Title 14, Part 298 of the Code of Federal Regulations that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed. [2015 c 86 § 305; 2009 c 503 § 1; 1998 c 311 § 5; 1994 c 43 § 1; 1980 c 37 § 29. Formerly RCW 82.08.030(11).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0263 Exemptions—Sales of motor vehicles and trailers for use in transporting persons or property in interstate or foreign commerce. The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce

whether such use is by the owner or whether such motor vehicles and trailers are leased to the user with or without drivers: PROVIDED, That the purchaser or user must be the holder of a carrier permit issued by the Interstate Commerce Commission or its successor agency. [1998 c 311 § 6; 1995 c 63 § 1; 1980 c 37 § 30. Formerly RCW 82.08.030(12).]

Effective date—1995 c 63: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 63 § 3.]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0264 Exemptions—Sales of motor vehicles, trailers, or campers to nonresidents for use outside the state. (1) The tax levied by RCW 82.08.020 does not apply to sales of motor vehicles, trailers, or campers to nonresidents of this state for use outside of this state, even when delivery is made within this state, but only if:

(a) The motor vehicles, trailers, or campers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a vehicle trip permit issued by the department of licensing pursuant to RCW 46.16A.320, or any agency of another state that has authority to issue similar permits; or

(b) The motor vehicles, trailers, or campers will be registered and licensed immediately under the laws of the state of the buyer's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.

(2) For the purposes of this section, the seller of a motor vehicle, trailer, or camper is not required to collect and shall not be found liable for the tax levied by RCW 82.08.020 on the sale if the tax is not collected and the seller retains the following documents, which must be made available upon request of the department:

(a) A copy of the buyer's currently valid out-of-state driver's license or other official picture identification issued by a jurisdiction other than Washington state;

(b) A copy of any one of the following documents, on which there is an out-of-state address for the buyer:

(i) A current residential rental agreement;

(ii) A property tax statement from the current or previous year;

(iii) A utility bill, dated within the previous two months;

(iv) A state income tax return from the previous year;

(v) A voter registration card;

(vi) A current credit report; or

(vii) Any other document determined by the department to be acceptable;

(c) A witnessed declaration in the form designated by the department, signed by the buyer, and stating that the buyer's purchase meets the requirements of this section; and

(d) A seller's certification, in the form designated by the department, that either a vehicle trip permit was issued or the vehicle was immediately registered and licensed in another state as required under subsection (1) of this section.

(3) If the department has information indicating the buyer is a Washington resident, or if the addresses for the buyer shown on the documentation provided under subsection (2) of this section are not the same, the department may contact the buyer to verify the buyer's eligibility for the exemption provided under this section. This subsection does not prevent the department from contacting a buyer as a result of information obtained from a source other than the seller's records.

(4) (a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a seller, in order to purchase a motor vehicle, trailer, or camper without paying retail sales tax is guilty of perjury under chapter 9A.72 RCW.

(b) Any person making tax exempt purchases under this section by displaying proof of identification not his or her own, or counterfeit identification, with intent to violate the provisions of this section, is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

(5) (a) Any seller that makes sales without collecting the tax to a person who does not provide the documents required under subsection (2) of this section, and any seller who fails to retain the documents required under subsection (2) of this section for the period prescribed by RCW 82.32.070, is personally liable for the amount of tax due.

(b) Any seller that makes sales without collecting the retail sales tax under this section and who has actual knowledge that the buyer's documentation required by subsection (2) of this section is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the buyer and the seller are liable for any penalties and interest assessable under chapter 82.32 RCW.

(6) For purposes of this section, "buyer" does not include cosigners or financial guarantors, unless those parties are listed as a registered owner on the vehicle title. [2010 c 161 § 1165; 2007 c 135 § 1; 1980 c 37 § 31. Formerly RCW 82.08.030(13).]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0266 Exemptions—Sales of watercraft to nonresidents for use outside the state. The tax levied by RCW 82.08.020 shall not apply to sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the federal boating act of 1958, even though delivery be made within this state, but only when (1) the watercraft will not be used within this state for more than forty-five days and (2) an appropriate exemption certificate supported by identification ascertaining residence as required by the department of revenue and signed by the purchaser or his or her agent establishing the fact that the purchaser is a nonresident and that the

watercraft is for use outside of this state, a copy of which shall be retained by the dealer. [2013 c 23 § 316; 1999 c 358 § 5; 1980 c 37 § 33. Formerly RCW 82.08.030(15).]

Effective date—1999 c 358 §§ 1 and 3-21: See note following RCW 82.04.3651.

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.02665 Exemptions—Sales of watercraft, vessels to residents of foreign countries. The tax levied by RCW 82.08.020 does not apply to sales of vessels to residents of foreign countries for use outside of this state, even though delivery is made within this state, but only if (1) the vessel will not be used within this state for more than forty-five days and (2) an appropriate exemption certificate supported by identification as required by the department of revenue and signed by the purchaser or the purchaser's agent establishes the fact that the purchaser is a resident of a foreign country and that the vessel is for use outside of this state. A copy of the exemption certificate is to be retained by the dealer.

As used in this section, "vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane. [1999 c 358 § 6; 1993 c 119 § 1.]

Effective date—1999 c 358 §§ 1 and 3-21: See note following RCW 82.04.3651.

RCW 82.08.0267 Exemptions—Sales of poultry for producing poultry and poultry products for sale. The tax levied by RCW 82.08.020 shall not apply to sales of poultry for use in the production for sale of poultry or poultry products. [1980 c 37 § 34. Formerly RCW 82.08.030(16).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0268 Exemptions—Sales of machinery and implements, and related parts and labor, for farming to nonresidents for use outside the state. The tax levied by RCW 82.08.020 shall not apply to sales to nonresidents of this state for use outside of this state of:

- (1) Machinery and implements for use in conducting a farming activity;
- (2) Parts for machinery and implements for use in conducting a farming activity; and
- (3) Labor and services for the repair of machinery, implements, and parts for use in conducting a farming activity, when such machinery, implements, and parts will be transported immediately outside the state. As proof of exemption, an affidavit or certification in such form as the department of revenue shall require shall be retained as a business record of the seller. [1998 c 167 § 1; 1980 c 37 § 35. Formerly RCW 82.08.030(17).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0269 Exemptions—Sales for use in states, territories, and possessions of the United States which are not contiguous to any other state. The tax levied by RCW 82.08.020 shall not apply to sales for use in states, territories, and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his or her designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories, and possessions. [2013 c 23 § 317; 1980 c 37 § 36. Formerly RCW 82.08.030(18).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0271 Exemptions—Sales to municipal corporations, the state, and political subdivisions of tangible personal property, labor and services on watershed protection and flood prevention contracts. The tax levied by RCW 82.08.020 shall not apply to sales to municipal corporations, the state, and all political subdivisions thereof of tangible personal property consumed and/or of labor and services rendered in respect to contracts for watershed protection and/or flood prevention. This exemption shall be limited to that portion of the selling price which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended. [1980 c 37 § 37. Formerly RCW 82.08.030(19).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0272 Exemptions—Sales of semen for artificial insemination of livestock. The tax levied by RCW 82.08.020 shall not apply to sales of semen for use in the artificial insemination of livestock. [1980 c 37 § 38. Formerly RCW 82.08.030(20).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0273 Exemptions—Sales to nonresidents of tangible personal property, digital goods, and digital codes for use outside the state—Proof of nonresident status—Penalties. (1) Subject to the conditions and limitations in this section, an exemption from the tax levied by RCW 82.08.020 in the form of a remittance from the department is provided for sales to nonresidents of this state of tangible personal property, digital goods, and digital codes. The exemption only applies if:

- (a) The property is for use outside this state;
- (b) The purchaser is a bona fide resident of a province or territory of Canada or a state, territory, or possession of the United States, other than the state of Washington; and
- (i) Such state, possession, territory, or province does not impose, or have imposed on its behalf, a generally applicable retail sales tax, use tax, value added tax, gross receipts tax on retailing

activities, or similar generally applicable tax, of three percent or more; or

(ii) If imposing a tax described in (b)(i) of this subsection, provides an exemption for sales to Washington residents by reason of their residence; and

(c) The purchaser agrees, when requested, to grant the department of revenue access to such records and other forms of verification at the purchaser's place of residence to assure that such purchases are not first used substantially in the state of Washington.

(2) Notwithstanding anything to the contrary in this chapter, if parts or other tangible personal property are installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a separate charge for the tangible personal property, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to a nonresident purchaser for the tangible personal property but only if the seller certifies in writing to the purchaser that the separately stated charge does not exceed either the seller's current publicly stated retail price for the tangible personal property or, if no publicly stated retail price is available, the seller's cost for the tangible personal property. However, the exemption provided by this section does not apply if tangible personal property is installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a single nonitemized charge for providing the tangible personal property and service. All of the provisions in subsections (1) and (3) through (7) of this section apply to this subsection.

(3)(a) Any person claiming exemption from retail sales tax under the provisions of this section must pay the state and local sales tax to the seller at the time of purchase and then request a remittance from the department in accordance with this subsection and subsection (4) of this section. A request for remittance must include proof of the person's status as a nonresident at the time of the purchase for which a remittance is requested. The request for a remittance must also include any additional information and documentation as required by the department, which may include a description of the item purchased for which a remittance is requested, the sales price of the item, the amount of sales tax paid on the item, the date of the purchase, the name of the seller and the physical address where the sale took place, and copies of sales receipts showing the qualified purchases.

(b) Acceptable proof of a nonresident person's status includes one piece of identification such as a valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card which has a photograph of the holder and is issued by the out-of-state jurisdiction. Identification under this subsection (3)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(4)(a)(i) Beginning January 1, 2020, through December 31, 2020, a person may request a remittance from the department for state sales taxes paid by the person on qualified retail purchases made in Washington between July 1, 2019, and December 31, 2019.

(ii) Beginning January 1, 2021, a person may request a remittance from the department during any calendar year for state sales taxes paid by the person on qualified retail purchases made in Washington during the immediately preceding calendar year only. No application

may be made with respect to purchases made before the immediately preceding calendar year.

(b) The remittance request, including proof of nonresident status and any other documentation and information required by the department, must be provided in a form and manner as prescribed by the department. Only one remittance request may be made by a person per calendar year.

(c) The total amount of a remittance request must be at least twenty-five dollars. The department must deny any request for a remittance that is less than twenty-five dollars.

(d) The department will examine the applicant's proof of nonresident status and any other documentation and information as required in the application to determine whether the applicant is entitled to a remittance under this section.

(5) (a) Any person making fraudulent statements to the department, which includes the offer of fraudulent or fraudulently procured identification or fraudulent sales receipts, in order to receive a remittance of retail sales tax is guilty of perjury under chapter 9A.72 RCW and is ineligible to receive any further remittances from the department under this section.

(b) Any person obtaining a remittance of retail sales tax from the department by providing proof of identification or sales receipts not the person's own, or counterfeit identification or sales receipts is (i) liable for repayment of the remittance, including interest as provided in chapter 82.32 RCW from the date the remittance was transmitted to the person until repaid in full, (ii) liable for a civil penalty equal to the greater of one hundred dollars or the amount of the remittance obtained in violation of this subsection (5)(b), and (iii) ineligible to receive any further remittances from the department under this section.

(c) Any person assisting another person in obtaining a remittance of retail sales tax in violation of (b) of this subsection is jointly and severally liable for amounts due under (b) of this subsection and is also ineligible to receive any further remittances from the department under this section.

(6) A person who receives a refund of sales tax from the seller for any reason with respect to a purchase made in this state is not entitled to a remittance for the tax paid on the purchase. A person who receives both a remittance under this section and a refund of sales tax from the seller with respect to the same purchase must immediately repay the remittance to the department. Interest as provided in chapter 82.32 RCW applies to amounts due under this section from the date that the department made the remittance until the amount due under this subsection is paid to the department. A person who receives a remittance with respect to a purchase for which the person had, at the time the person submitted the application for a remittance, already received a refund of sales tax from the seller is also liable for a civil penalty equal to the greater of one hundred dollars or the amount of the remittance obtained in violation of this subsection and is ineligible to receive any further remittances from the department under this section.

(7) The exemption provided by this section is only for the state portion of the sales tax. For purposes of this section, the state portion of the sales tax is not reduced by any local sales tax that is deducted or credited against the state sales tax as provided by law.

(8) The exemption in this section does not apply to sales of cannabis, useable cannabis, or cannabis-infused products. [2022 c 16

§ 148; 2019 c 423 § 101; 2014 c 140 § 17; 2011 c 7 § 1; 2010 c 106 § 215; 2009 c 535 § 512; 2007 c 135 § 2; 2003 c 53 § 399; 1993 c 444 § 1; 1988 c 96 § 1; 1982 1st ex.s. c 5 § 1; 1980 c 37 § 39. Formerly RCW 82.08.030(21).]

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

Finding—Intent—2019 c 423: "(1) The legislature finds that counties that border other states and Canada experience a significant problem of residents of Washington state who evade taxes and fees by failing to register their vehicles, aircraft, and vessels in Washington state. According to a 2007 Washington State University study, the department of revenue lost eighty million dollars over the previous five years to persons avoiding taxes and fees in this manner. It was also estimated in the study that twenty thousand vehicles were illegally registered in Oregon to residents of Clark county, Washington. The problem has undoubtedly grown worse in the decade since the study was completed resulting in hundreds of millions of dollars in lost revenue to state and local coffers as these new residents fail to pay their fair share for public services. Moreover, a public safety risk is created when inaccurate information is provided to law enforcement or insurance companies in the event of an accident or infraction.

(2) Current statutes contain monetarily significant penalties that are appropriate given the scope of the harm. It is the intent of the legislature that law enforcement and prosecutors proceed against violators to the fullest extent of the law. In order to give them more tools and ensure compliance with the law, it is the intent of the legislature to set up a deferred finding program consistent with other programs in the state that allows defendants to obtain dismissal of charges if they take certain remedial steps. It is the intent of the legislature that the punishment for those who do not comply with the deferred finding program remain in force and be fully implemented." [2019 c 423 § 201.]

Effective date—2019 c 423: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019." [2019 c 423 § 301.]

Effective date—2011 c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 c 7 § 2.]

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

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

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—1988 c 96: "This act shall take effect July 1, 1989." [1988 c 96 § 2.]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0274 Exemptions—Sales of form lumber to person engaged in constructing, repairing, etc., structures for consumers. The tax levied by RCW 82.08.020 shall not apply to sales of form lumber to any person engaged in the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: PROVIDED, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof. [1980 c 37 § 40. Formerly RCW 82.08.030(22).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.02745 Exemptions—Charges for labor and services or sales of tangible personal property related to farmworker housing—Exemption certificate—Rules. (Expires January 1, 2032.) (1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered by any person in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures, in which at least 50 percent of housing units in the development are used as farmworker housing, or to sales of tangible personal property that becomes an ingredient or component of the buildings or other structures during the course of the constructing, repairing, decorating, or improving the buildings or other structures. The exemption is provided for all housing units in the development and is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department by rule.

(2) The exemption provided in this section for farmworker housing provided on a year-round basis only applies if that housing is built to the current building code for single-family or multifamily dwellings according to the state building code, chapter 19.27 RCW.

(3) Any farmworker housing built under this section must be used according to this section for at least five consecutive years from the date the housing is approved for occupancy, or the full amount of tax otherwise due is immediately due and payable together with interest, but not penalties, from the date the housing is approved for occupancy until the date of payment. If at any time farmworker housing ceases to be used in the manner specified in subsection (2) of this section, the full amount of tax otherwise due is immediately due and payable with interest, but not penalties, from the date the housing ceases to be used as farmworker housing until the date of payment.

(4) The exemption provided in this section does not apply to housing built for the occupancy of an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business. The exemption provided in this section does not apply to housing built exclusively for workers in the United States on an H-2A visa under the United States citizenship and immigration services.

(5) If during any agricultural season in the qualifying five years under subsection (3) of this section the housing is occupied by

a farmworker who does not have an H-2A visa, then the housing will be considered not to be exclusively built for workers on an H-2A visa.

(6) For purposes of this section and RCW 82.12.02685, the following definitions apply unless the context clearly requires otherwise.

(a) "Agricultural employer" or "employer" has the same meaning as given in RCW 19.30.010, and includes any employer engaged in aquaculture as defined in RCW 15.85.020.

(b) "Farm work" means services relating to:

(i) Cultivating the soil, raising or harvesting, or catching, netting, handling, planting, drying, packing, grading, storing, or preserving in its unmanufactured state any agricultural or aquacultural commodity;

(ii) Delivering to storage, market, or a carrier for transportation to market or to processing any agricultural or aquacultural commodity; or

(iii) Working in a processing plant and directly handling agricultural or aquacultural product.

(c) "Farmworker" means a single person, or all members of a household, whether such persons are related or not, if the combined household income earned from farm work is at least \$3,000 per calendar year.

(d) "Farmworker housing" means all facilities provided by an agricultural employer, housing authority, local government, state or federal agency, nonprofit community or neighborhood-based organization that is exempt from income tax under section 501(c) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-profit provider of housing for housing farmworkers on a year-round or seasonal basis, including bathing, food handling, hand washing, laundry, and toilet facilities, single-family and multifamily dwelling units and dormitories, and includes labor camps under RCW 70.114A.110.

(i) "Farmworker housing" includes:

(A) Housing occupied by a household with at least one member who is a farmworker; and

(B) Housing occupied by a farmworker on a seasonal basis, where the housing is not used as farmworker housing for a portion of the year, such as when it is rented to the general public when not being used for farmworker housing.

(ii) "Farmworker housing" does not include:

(A) Housing regularly provided on a commercial basis to the general public;

(B) Housing provided by a housing authority unless at least eighty percent of the occupants are farmworkers whose adjusted income is less than fifty percent of median family income, adjusted for household size, for the county where the housing is provided; and

(C) Housing provided to farmworkers providing services related to the growing, raising, or producing of cannabis.

(7) This section expires January 1, 2032. [2022 c 16 § 149; 2021 c 250 § 1; 2014 c 140 § 18; 2007 c 54 § 14; 1997 c 438 § 1; 1996 c 117 § 1.]

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

Tax preference performance statement—2021 c 250: "(1) This section is the tax preference performance statement for the tax preferences contained in sections 1 and 2, chapter 250, Laws of 2021.

This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to increase the supply of farmworker housing.

(4) If a review finds that new farmworker housing is developed utilizing these preferences, then the legislature intends to extend the expiration date of these tax preferences.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state." [2021 c 250 § 3.]

Effective date—2021 c 250: "This act takes effect October 1, 2021." [2021 c 250 § 4.]

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

Effective date—1997 c 438: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 20, 1997]." [1997 c 438 § 3.]

Effective date—1996 c 117: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 20, 1996]." [1996 c 117 § 3.]

RCW 82.08.0275 Exemptions—Sales of and labor and service charges for mining, sorting, crushing, etc., of sand, gravel, and rock from county or city quarry for public road purposes. The tax levied by RCW 82.08.020 shall not apply to sales of, cost of, or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel and rock when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this section shall not apply to sales of, cost of, or charges made for such labor and services, if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this section. [1980 c 37 § 41. Formerly RCW 82.08.030(23).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0277 Exemptions—Sales of pollen. The tax levied by RCW 82.08.020 shall not apply to sales of pollen. [1980 c 37 § 43. Formerly RCW 82.08.030(25).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0278 Exemptions—Sales between political subdivisions resulting from annexation or incorporation. (Effective until January 1, 2030.) The tax levied by RCW 82.08.020 does not apply to:

(1) Sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation, merger, or incorporation of any part of the territory of one political subdivision by another; and

(2) Sales to one political subdivision by another political subdivision pursuant to the terms of a contractual consolidation under which the taxpayers that originally paid a sales or use tax continue to benefit from the personal property. [2019 c 188 § 1; 1980 c 37 § 44. Formerly RCW 82.08.030(26).]

Tax preference performance statement exemption—2019 c 188: "The provisions of RCW 82.32.808 do not apply to this act." [2019 c 188 § 3.]

Expiration date—2019 c 188: "This act expires January 1, 2030." [2019 c 188 § 4.]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0278 Exemptions—Sales between political subdivisions resulting from annexation or incorporation. (Effective January 1, 2030.) The tax levied by RCW 82.08.020 shall not apply to sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another. [1980 c 37 § 44. Formerly RCW 82.08.030(26).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0279 Exemptions—Renting or leasing of motor vehicles and trailers to a nonresident for use in the transportation of persons or property across state boundaries. The tax levied by RCW 82.08.020 shall not apply to the renting or leasing of motor vehicles and trailers to a nonresident of this state for use exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state and for purposes of this exemption the term "nonresident" shall apply to a renter or lessee who has one or more places of business in this state as well as in one or more other states but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained and operated from the renter's or lessee's place of business in another state. [1980 c 37 § 45. Formerly RCW 82.08.030(27).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.02795 Exemptions—Sales to free hospitals. (1) The tax levied by RCW 82.08.020 shall not apply to sales to free hospitals of items reasonably necessary for the operation of, and provision of health care by, free hospitals.

(2) As used in this section, "free hospital" means a hospital that does not charge patients for health care provided by the hospital. [1993 c 205 § 1.]

Effective date—1993 c 205: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 6, 1993]." [1993 c 205 § 3.]

RCW 82.08.02805 Exemptions—Sales to qualifying blood, tissue, or blood and tissue banks. (1) The tax levied by RCW 82.08.020 does not apply to the sale of medical supplies, chemicals, or materials to a qualifying blood bank, a qualifying tissue bank, or a qualifying blood and tissue bank. The exemption in this section does not apply to the sale of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

(2) For the purposes of this section, the following definitions apply:

(a) "Medical supplies" means any item of tangible personal property, including any repair and replacement parts for such tangible personal property, used by a qualifying blood bank, a qualifying tissue bank, or a qualifying blood and tissue bank for the purpose of performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue. The term includes tangible personal property used to:

- (i) Provide preparatory treatment of blood, bone, or tissue;
- (ii) Control, guide, measure, tune, verify, align, regulate, test, or physically support blood, bone, or tissue; and
- (iii) Protect the health and safety of employees or others present during research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(b) "Chemical" means any catalyst, solvent, water, acid, oil, or other additive that physically or chemically interacts with blood, bone, or tissue.

(c) "Materials" means any item of tangible personal property, including, but not limited to, bags, packs, collecting sets, filtering materials, testing reagents, antisera, and refrigerants used or consumed in performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(d) "Research" means basic and applied research that has as its objective the design, development, refinement, testing, marketing, or commercialization of a product, service, or process.

(e) The definitions in RCW 82.04.324 apply to this section. [2004 c 82 § 2; 1995 2nd sp.s. c 9 § 4.]

Effective date—1995 2nd sp.s. c 9: See note following RCW 84.36.035.

RCW 82.08.02806 Exemptions—Sales of human blood, tissue, organs, bodies, or body parts for medical research and quality control testing. The tax levied by RCW 82.08.020 shall not apply to sales of human blood, tissue, organs, bodies, or body parts for medical research and quality control testing purposes. [1996 c 141 § 1.]

Effective date—1996 c 141: "This act shall take effect July 1, 1996." [1996 c 141 § 3.]

RCW 82.08.02807 Exemptions—Sales to organ procurement organization. (1) The tax levied by RCW 82.08.020 does not apply to the sales of medical supplies, chemicals, or materials to an organ procurement organization exempt under RCW 82.04.326. This exemption does not apply to the sale of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

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

(a) "Chemical" means any catalyst, solvent, water, acid, oil, or other additive that physically or chemically interacts with blood, bone, or tissue.

(b) "Materials" means any item of tangible personal property including, but not limited to, bags, packs, collecting sets, filtering materials, testing reagents, antisera, and refrigerants, used or consumed in performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(c) "Medical supplies" means any item of tangible personal property, including any repair and replacement parts for such tangible personal property, used by an organ procurement organization exempt under RCW 82.04.326 for the purpose of performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue. The term includes tangible personal property used to:

(i) Provide preparatory treatment of blood, bone, or tissue;

(ii) Control, guide, measure, tune, verify, align, regulate, test, or physically support blood, bone, or tissue; or

(iii) Protect the health and safety of employees or others present during research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue. [2020 c 139 § 13; 2014 c 97 § 306; 2002 c 113 § 2.]

Effective date—2002 c 113: See note following RCW 82.04.326.

RCW 82.08.0281 Exemptions—Sales of prescription drugs. (1) The tax levied by RCW 82.08.020 does not apply to sales of drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription.

(2) The tax levied by RCW 82.08.020 does not apply to sales of drugs or devices used for family planning purposes, including the prevention of conception, for human use dispensed or to be dispensed to patients, pursuant to a prescription.

(3) The tax levied by RCW 82.08.020 does not apply to sales of drugs and devices used for family planning purposes, including the prevention of conception, for human use supplied by a family planning

clinic that is under contract with the department of health to provide family planning services.

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

(a) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

(b) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, alcoholic beverages, cannabis, useable cannabis, or cannabis-infused products:

(i) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; or

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(iii) Intended to affect the structure or any function of the body.

(c) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug required by 21 C.F.R. Sec. 201.66, as amended or renumbered on January 1, 2003. The label includes:

(i) A "drug facts" panel; or

(ii) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance, or preparation. [2022 c 16 § 150; 2014 c 140 § 19; 2004 c 153 § 108; 2003 c 168 § 403; 1993 sp.s. c 25 § 308; 1980 c 37 § 46. Formerly RCW 82.08.030(28).]

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

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

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

Finding—1993 sp.s. c 25: "The legislature finds that prevention is a significant element in the reduction of health care costs. The legislature further finds that taxing some physician prescriptions and not others is unfair to patients. It is, therefore, the intent of the legislature to remove the taxes from prescriptions issued for family planning purposes." [1993 sp.s. c 25 § 307.]

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

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0282 Exemptions—Sales of returnable containers for beverages and foods. The tax levied by RCW 82.08.020 shall not apply to sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers. [1980 c 37 § 47. Formerly RCW 82.08.030(29).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0283 Exemptions—Certain medical items. (1) The tax levied by RCW 82.08.020 shall not apply to sales of:

(a) Prosthetic devices prescribed, fitted, or furnished for an individual by a person licensed under the laws of this state to prescribe, fit, or furnish prosthetic devices, and the components of such prosthetic devices;

(b) Medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW; and

(c) Medically prescribed oxygen, including, but not limited to, oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen systems prescribed for an individual by a person licensed under chapter 18.57 or 18.71 RCW for use in the medical treatment of that individual.

(2) In addition, the tax levied by RCW 82.08.020 shall not apply to charges made for labor and services rendered in respect to the repairing, cleaning, altering, or improving of any of the items exempted under subsection (1) of this section.

(3) The exemption in subsection (1) of this section shall not apply to sales of durable medical equipment, other than as specified in subsection (1)(c) of this section, or mobility enhancing equipment.

(4) The definitions in this subsection apply throughout this section.

(a) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for a prosthetic device, worn on or in the body to:

(i) Artificially replace a missing portion of the body;

(ii) Prevent or correct a physical deformity or malfunction; or

(iii) Support a weak or deformed portion of the body.

(b) "Durable medical equipment" means equipment, including repair and replacement parts for durable medical equipment that:

(i) Can withstand repeated use;

(ii) Is primarily and customarily used to serve a medical purpose;

(iii) Generally is not useful to a person in the absence of illness or injury; and

(iv) Is not worn in or on the body.

(c) "Mobility enhancing equipment" means equipment, including repair and replacement parts for mobility enhancing equipment that:

(i) Is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;

(ii) Is not generally used by persons with normal mobility; and

(iii) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

(d) The terms "durable medical equipment" and "mobility enhancing equipment" are mutually exclusive. [2007 c 6 § 1101; 2004 c 153 § 101; 2003 c 168 § 409; 2001 c 75 § 1; 1998 c 168 § 2; 1997 c 224 § 1; 1996 c 162 § 1; 1991 c 250 § 2; 1986 c 255 § 1; 1980 c 86 § 1; 1980 c 37 § 48. Formerly RCW 82.08.030(30).]

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

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

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

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

Effective date—2001 c 75: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 19, 2001]." [2001 c 75 § 3.]

Effective date—1998 c 168: See note following RCW 82.04.120.

Effective date—1997 c 224: "This act takes effect October 1, 1998." [1997 c 224 § 3.]

Effective date—1996 c 162: "This act shall take effect July 1, 1996." [1996 c 162 § 3.]

Finding—Intent—1991 c 250: "(1) The legislature finds:

(a) The existing state policy is to exempt medical oxygen from sales and use tax.

(b) The technology for supplying medical oxygen has changed substantially in recent years. Many consumers of medical oxygen purchase or rent equipment that supplies oxygen rather than purchasing oxygen in gaseous form.

(2) The intent of this act is to bring sales and rental of individual oxygen systems within the existing exemption for medical oxygen, without expanding the essence of the original policy decision that medical oxygen should be exempt from sales and use tax." [1991 c 250 § 1.]

Effective date—1986 c 255: "This act shall take effect July 1, 1986." [1986 c 255 § 3.]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0285 Exemptions—Sales of ferry vessels to the state or local governmental units—Components thereof—Labor and service charges. The tax levied by RCW 82.08.020 shall not apply to sales of ferry vessels to the state of Washington or to a local governmental unit in the state of Washington for use in transporting pedestrians, vehicles, and goods within or outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such ferry vessels; also sales of or charges made for labor and services rendered in respect to constructing or improving such ferry vessels. [1980 c 37 § 50. Formerly RCW 82.08.030 (32).]

Intent—1980 c 37: See note following RCW 82.04.4281.

RCW 82.08.0287 Exemptions—Sales of passenger motor vehicles as ride-sharing vehicles. (1) The tax imposed by this chapter does not apply to sales of passenger motor vehicles which are to be used primarily for ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase.

(2) (a) To qualify for the tax exemption, those passenger motor vehicles with three or more passengers, including the driver, used for ride sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70A.15 RCW, in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan, or in other counties where the vehicle is registered with or operated by a public transportation agency. Additionally at least one of the following conditions must apply: (i) The vehicle must be operated by a public transportation agency for the benefit of the general public; or (ii) the vehicle must be used by a major employer, as defined in RCW 70A.15.4010 as an element of its commute trip reduction program for their employees; or (iii) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(b) Notwithstanding the ridership requirements under (a) of this subsection (2), unless the vehicle is operated by a public transportation agency, the vehicle must be used for ride sharing in the transport of at least five passengers. [2021 c 135 § 6; 2020 c 20 § 1472; 2014 c 97 § 503; 2001 c 320 § 4; 1996 c 244 § 4; 1995 c 274 § 2; 1993 c 488 § 2; 1980 c 166 § 1.]

Effective date—2021 c 135: See note following RCW 46.18.285.

Effective date—2001 c 320: See note following RCW 11.02.005.

Finding—1993 c 488: "The legislature finds that ride sharing and vanpools are the fastest growing transportation choice because of their flexibility and cost-effectiveness. Ride sharing and vanpools represent an effective means for local jurisdictions, transit agencies, and the private sector to assist in addressing the requirements of the Commute Trip Reduction Act, the Growth Management Act, the Americans with Disabilities Act, and the Clean Air Act." [1993 c 488 § 1.]

Annual recertification rule—Report—1993 c 488: "The department shall adopt by rule a process requiring annual recertification upon renewal for vehicles registered under *RCW 46.16.023 to discourage abuse of tax exemptions under RCW 82.08.0287, 82.12.0282, and 82.44.015. The department of licensing in consultation with the department of transportation shall submit a report to the legislative transportation committee and the house and senate standing committees

on transportation by July 1, 1996, assessing the effectiveness of the department of licensing at limiting tax exemptions to bona fide ride-sharing vehicles." [1993 c 488 § 6.]

***Reviser's note:** RCW 46.16.023 was repealed by 2010 c 161 § 438, effective July 1, 2011.

Severability—1980 c 166: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 166 § 4.]

Ride-sharing vehicles—Special plates: RCW 46.18.285.

RCW 82.08.02875 Exemptions—Vehicle parking charges subject to tax at stadium and exhibition center. The tax levied by RCW 82.08.020 does not apply to vehicle parking charges that are subject to tax under RCW 36.38.040. [1997 c 220 § 203 (Referendum Bill No. 48, approved June 17, 1997).]

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

RCW 82.08.0288 Exemptions—Lease of certain irrigation equipment. The tax levied by RCW 82.08.020 does not apply to the lease of irrigation equipment if:

- (1) The irrigation equipment was purchased by the lessor for the purpose of irrigating land controlled by the lessor;
- (2) The lessor has paid tax under RCW 82.08.020 or 82.12.020 in respect to the irrigation equipment;
- (3) The irrigation equipment is attached to the land in whole or in part;
- (4) The irrigation equipment is not used in the production of cannabis; and
- (5) The irrigation equipment is leased to the lessee as an incidental part of the lease of the underlying land to the lessee and is used solely on such land. [2022 c 16 § 151; 2014 c 140 § 20; 1983 1st ex.s. c 55 § 5.]

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

Effective dates—1983 1st ex.s. c 55: See note following RCW 82.08.010.

RCW 82.08.0289 Exemptions—Telephone, telecommunications, and ancillary services. Subject to the enactment into law of the 2013 amendments to RCW 82.14B.040 in section 103, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.042 in section 104, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.030 in section 105, chapter 8, Laws of 2013 2nd sp. sess., the 2013 amendments to RCW 82.14B.200 in section 106, chapter 8, Laws of

2013 2nd sp. sess., the 2013 amendments to RCW 80.36.430 in section 108, chapter 8, Laws of 2013 2nd sp. sess., and the 2013 amendments to RCW 43.20A.725 in section 109, chapter 8, Laws of 2013 2nd sp. sess.:

(1) Until August 1, 2013, the tax levied by RCW 82.08.020 does not apply to sales of:

(a) Local service;

(b) Coin-operated telephone service; and

(c) Mobile telecommunications services, including any toll service, provided to a customer whose place of primary use is outside this state.

(2) The definitions in RCW 82.04.065, as well as the definitions in this subsection, apply to this section.

(a) "Local service" means: (i) Ancillary services and telecommunications service, as those terms are defined in RCW 82.04.065, other than toll service, provided to an individual subscribing to a residential class of telephone service offered under a tariff required to be filed with the Washington utilities and transportation commission under Title 80 RCW; and (ii) fixed interconnected voice over internet protocol service, other than the nonlocal service allocation attributable to that service, sold by a provider to an individual classified as residential by that provider.

(b) "Toll service" means long distance service regardless of the method of billing for such service, but does not include customer access line charges for access to a toll calling network.

(c) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(d) "Fixed interconnected voice over internet protocol service" means a service that meets the definition of interconnected voice over internet protocol service in 47 C.F.R. Sec. 9.3 on January 1, 2009, and that offers an active telephone number or successor dialing protocol assigned by a provider; provides inbound and outbound calling capability; and can be used for transmission of telephone calls only from a fixed location.

(e) "Nonlocal service allocation" means the portion of the provider's fixed interconnected voice over internet protocol service attributable to the provider's nationwide nonlocal service activity as determined using a method sanctioned by the federal communications commission in FCC 06-94 and reported to the federal communications commission for the same calendar quarter. If the provider does not report any nonlocal service activity to the federal communications commission, the full revenue derived from the fixed interconnected voice over internet protocol service is deemed part of the nonlocal service allocation.

(f) "Provider" means a provider of a fixed interconnected voice over internet protocol service that is, or is affiliated with a person that is, subject to a franchise fee in this state under the authority of Title 47 U.S.C. Sec. 542(a). A provider is affiliated with a person if the provider and the person have one hundred percent common ownership. [2013 2nd sp.s. c 8 § 107. Prior: 2007 c 6 § 1006; 2007 c 6 § 1005; 2002 c 67 § 6; 1983 2nd ex.s. c 3 § 30.]

Retroactive application—2013 2nd sp.s. c 8 § 107: "Section 107 of this act applies prospectively as well as retroactively to tax periods open for assessment or refund of taxes under RCW 82.32.050 or 82.32.060, including any refund claims or disputed assessments pending

before the department of revenue, board of tax appeals, or any court of law." [2013 2nd sp.s. c 8 § 111.]

VOIP sales tax refunds not authorized before August 1, 2013—2013 2nd sp.s. c 8 § 107: "In accordance with Article VIII, section 5 of the state Constitution, section 107 of this act does not authorize refunds of sales tax validly collected before August 1, 2013, on fixed interconnected voice over internet protocol service as defined in section 107 of this act." [2013 2nd sp.s. c 8 § 112.]

Application—Local service ending after August 1, 2013—2013 2nd sp.s. c 8: "For services affected by the expiration of the exemption for local service under RCW 82.08.0289(1) that cover a billing period starting before and ending after August 1, 2013, RCW 82.08.064(3)(a) is deemed to apply, and retail sales tax will apply to the first billing period starting on or after August 1, 2013." [2013 2nd sp.s. c 8 § 110.]

Findings—Intent—Effective dates—2013 2nd sp.s. c 8: See notes following RCW 82.14B.040.

Contingent effective date—2007 c 6 §§ 1003, 1006, 1014, and 1018: See note following RCW 82.04.065.

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

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

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

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

RCW 82.08.0291 Exemptions—Sales of amusement and recreation services or personal services by nonprofit youth organization—Local government physical fitness classes. The tax imposed by RCW 82.08.020 does not apply to sales defined as a sale at retail and retail sale under RCW 82.04.050 (3)(g) or (15), by a nonprofit youth organization, as defined in RCW 82.04.4271, to members of the organization; and the tax does not apply to physical fitness classes provided by a local government. [2015 c 169 § 4; 2000 c 103 § 8; 1994 c 85 § 1; 1981 c 74 § 2.]

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

Effective date—1994 c 85: "This act shall take effect July 1, 1994." [1994 c 85 § 2.]

RCW 82.08.02915 Exemptions—Sales used by health or social welfare organizations for alternative housing for youth in crisis. The tax levied by RCW 82.08.020 shall not apply to sales to health or social welfare organizations, as defined in RCW 82.04.431, of items

necessary for new construction of alternative housing for youth in crisis, so long as the facility will be a licensed agency under chapter 74.15 RCW, upon completion. [1998 c 183 § 1; 1997 c 386 § 56; 1995 c 346 § 1.]

Effective date—1997 c 386 §§ 56, 57: "Sections 56 and 57 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1997." [1997 c 386 § 71.]

Effective date—1995 c 346: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 13, 1995]." [1995 c 346 § 4.]

RCW 82.08.02917 Youth in crisis—Definition—Limited purpose.
For the purposes of RCW 82.08.02915 and 82.12.02915, "youth in crisis" means any youth under eighteen years of age who is either: Homeless; a runaway from the home of a parent, guardian, or legal custodian; abused; neglected; abandoned by a parent, guardian, or legal custodian; or suffering from a substance abuse or mental disorder. [1995 c 346 § 3.]

Effective date—1995 c 346: See note following RCW 82.08.02915.

RCW 82.08.0293 Exemptions—Sales of food and food ingredients.
(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:
(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume;
(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco; and
(c) Cannabis, useable cannabis, or cannabis-infused products.
(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.
(a) "Bottled water" means water that is placed in a safety sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.
(b) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(c) (i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) Food is "sold with eating utensils provided by the seller" if:

(A) The seller's customary practice for that item is to physically deliver or hand a utensil to the customer with the food or food ingredient as part of the sales transaction. If the food or food ingredient is prepackaged with a utensil, the seller is considered to have physically delivered a utensil to the customer unless the food and utensil are prepackaged together by a food manufacturer classified under sector 311 of the North American industry classification system (NAICS);

(B) A plate, glass, cup, or bowl is necessary to receive the food or food ingredient, and the seller makes those utensils available to its customers; or

(C) (I) The seller makes utensils available to its customers, and the seller has more than seventy-five percent prepared food sales. For purposes of this subsection (2) (c) (ii) (C), a seller has more than seventy-five percent prepared food sales if the seller's gross retail sales of prepared food under (c) (i) (A), (c) (i) (C), and (c) (ii) (B) of this subsection equal more than seventy-five percent of the seller's gross retail sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements.

(II) However, even if a seller has more than seventy-five percent prepared food sales, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not

"sold with utensils provided by the seller" unless the seller's customary practice for the package is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients must be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.

(III) The seller must determine a single prepared food sales percentage annually for all the seller's establishments in the state based on the prior year of sales. The seller may elect to determine its prepared food sales percentage based either on the prior calendar year or on the prior fiscal year. A seller may not change its elected method for determining its prepared food percentage without the written consent of the department. The seller must determine its annual prepared food sales percentage as soon as possible after accounting records are available, but in no event later than ninety days after the beginning of the seller's calendar or fiscal year. A seller may make a good faith estimate of its first annual prepared food sales percentage if the seller's records for the prior year are not sufficient to allow the seller to calculate the prepared food sales percentage. The seller must adjust its good faith estimate prospectively if its relative sales of prepared foods in the first ninety days of operation materially depart from the seller's estimate.

(iii) "Prepared food" does not include the following items, if sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system—United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(d) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a nonprofit organization organized under chapter 24.03A or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two

years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks, bottled water, and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived. [2022 c 16 § 152; 2021 c 176 § 5249; 2019 c 8 § 401; 2017 3rd sp.s. c 28 § 101; 2014 c 140 § 22; 2011 c 2 § 301 (Initiative Measure No. 1107, approved November 2, 2010); 2010 1st sp.s. c 23 § 902; (2010 1st sp.s. c 23 § 901 expired July 1, 2010); 2010 c 106 § 216; 2009 c 483 § 2; 2004 c 153 § 201; 2003 c 168 § 301; 1988 c 103 § 1; 1986 c 182 § 1; 1985 c 104 § 1; 1982 1st ex.s. c 35 § 33.]

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

Effective date—2021 c 176: See note following RCW 24.03A.005.

Effective date—2019 c 8 §§ 105, 301, 302, 401, and 704: See note following RCW 82.08.010.

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

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

Findings—2011 c 2 (Initiative Measure No. 1107): "The people of the state of Washington in enacting this initiative measure find:

(1) The 2010 legislature adopted legislation that imposed new or higher taxes on many common food and beverage products, increasing the tax burden on Washington consumers and businesses by hundreds of millions of dollars;

(2) Taxes on food and beverages hurt all Washington consumers, and especially hurt lower and middle income taxpayers who can least afford it;

(3) The legislature's tax increases on food and beverages come at a time when Washington residents and businesses already face an economic crisis;

(4) The process the legislature used to increase taxes on food and beverages did not provide adequate public input on or scrutiny of the proposed tax increases;

(5) Washington residents already pay among the highest sales taxes in the country;

(6) The legislature's tax increases on food and beverages hurt Washington food and beverage producers and retail businesses by making their products more costly and less competitive;

(7) The legislature's tax increases on food and beverages will hurt Washington's economy and cause the loss of many local jobs; and

(8) The legislature's tax increases on food and beverages arbitrarily and unfairly impose higher taxes on some food and beverage products but not on others that are similar or essentially the same.

For these reasons, the people repeal the food and beverage taxes imposed by the 2010 legislature." [2011 c 2 § 101 (Initiative Measure No. 1107, approved November 2, 2010).]

Construction—2011 c 2 (Initiative Measure No. 1107): "The provisions of this act are to be construed liberally so as to effectuate its intent." [2011 c 2 § 501 (Initiative Measure No. 1107, approved November 2, 2010).]

Expiration date—2010 1st sp.s. c 23 §§ 106, 901, and 1201: See note following RCW 82.04.2907.

Effective date—2010 1st sp.s. c 23 §§ 107, 601, 602, 702, 902, 1202, and 1401-1405: See note following RCW 82.04.2907.

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

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

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

Finding—Intent—2009 c 483: "The legislature finds that low-income senior citizens are one of the most vulnerable segments of our population who often find it difficult to find safe and clean housing that is also affordable. The federal government has identified this population as being at risk. The federal government provides income tax credits and favorable financing to encourage developers and operators to provide safe and clean housing for our low-income senior citizens. There are only four such facilities in the state, and it is doubtful that any new ones will be built in the future. These four facilities offer "service packages" to their residents, which may include meals, housekeeping, recreation, laundry, and transportation. Washington's sales and use tax law provides generally that when multiple goods and services are offered for one nonitemized price, the entire transaction is subject to sales or use tax if any of the component goods or services are subject to sales tax. Consequently, in order to provide tax relief to these vulnerable tenants, the legislature intends to establish sales and use tax exemptions for the

sale of service packages and to meals sold outside of a service package when provided by the lessor or operator of these senior housing facilities to tenants who are at least sixty-two years old." [2009 c 483 § 1.]

Effective date—2009 c 483: "This act takes effect August 1, 2009." [2009 c 483 § 6.]

Retroactive effective date—Effective date—2004 c 153: "(1) Section 201 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and retroactively takes effect January 1, 2004.

(2) This act takes effect July 1, 2004, except section 201 of this act." [2004 c 153 § 501.]

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

Effective date—1988 c 103: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1988." [1988 c 103 § 4.]

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

RCW 82.08.0294 Exemptions—Sales of feed for cultivating or raising fish for sale. The tax levied by RCW 82.08.020 shall not apply to sales of feed to persons for use in the cultivating or raising for sale of fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession. [1985 c 148 § 3.]

RCW 82.08.0296 Exemptions—Sales of feed consumed by livestock at a public livestock market. The tax levied by RCW 82.08.020 shall not apply to sales of feed consumed by livestock at a public livestock market. [1986 c 265 § 1.]

RCW 82.08.0297 Exemptions—Sales of food purchased under the supplemental nutrition assistance program. (1) The tax levied by RCW 82.08.020 does not apply to sales of eligible foods that are purchased with benefits under the supplemental nutrition assistance program or successor program, notwithstanding anything to the contrary in RCW 82.08.0293.

(2) When a purchase of eligible foods is made with a combination of benefits under the supplemental nutrition assistance program or successor program and cash, check, or similar payment, the cash, check, or similar payment must be applied first to food products exempt from tax under RCW 82.08.0293 whenever possible.

(3) As used in this section:

(a) "Eligible foods" means foods that are eligible for purchase with benefits under the supplemental nutrition assistance program or successor program.

(b) "Supplemental nutrition assistance program" refers to a food assistance program that is administered, at the federal level, by the United States department of agriculture, and was formerly known as the food stamp program. [2011 c 174 § 103; 1998 c 79 § 18; 1987 c 28 § 1.]

Effective date—1987 c 28: "This act shall take effect October 1, 1987." [1987 c 28 § 3.]

RCW 82.08.0298 Exemptions—Sales of diesel fuel for use in operating watercraft in commercial deep sea fishing or commercial passenger fishing boat operations outside the state. The tax levied by RCW 82.08.020 shall not apply to sales of diesel fuel for use in the operation of watercraft in commercial deep sea fishing operations or commercial passenger fishing boat operations by persons who are regularly engaged in the business of commercial deep sea fishing or commercial passenger fishing boat operations outside the territorial waters of this state.

For purposes of this section, a person is not regularly engaged in the business of commercial deep sea fishing or the operation of a commercial passenger fishing boat if the person has gross receipts from these operations of less than five thousand dollars a year. [1987 c 494 § 1.]

RCW 82.08.0299 Exemptions—Emergency lodging for homeless persons—Conditions. (1) The tax levied by RCW 82.08.020 shall not apply to emergency lodging provided for homeless persons for a period of less than thirty consecutive days under a shelter voucher program administered by an eligible organization.

(2) For the purposes of this exemption, an eligible organization includes only cities, towns, and counties, or their respective agencies, and groups providing emergency food and shelter services. [1988 c 61 § 1.]

Effective date—1988 c 61: "This act shall take effect July 1, 1988." [1988 c 61 § 4.]

RCW 82.08.031 Exemptions—Sales to artistic or cultural organizations of certain objects acquired for exhibition or presentation. The tax levied by RCW 82.08.020 shall not apply to sales to artistic or cultural organizations of objects which are acquired for the purpose of exhibition or presentation to the general public if the objects are:

- (1) Objects of art;
- (2) Objects of cultural value;
- (3) Objects to be used in the creation of a work of art, other than tools; or
- (4) Objects to be used in displaying art objects or presenting artistic or cultural exhibitions or performances. [1981 c 140 § 4.]

"Artistic or cultural organization" defined: RCW 82.04.4328.

RCW 82.08.0311 Exemptions—Sales of materials and supplies used in packing horticultural products. The tax levied by RCW 82.08.020 shall not apply to sales of materials and supplies directly used in the packing of fresh perishable horticultural products by any person entitled to a deduction under RCW 82.04.4287 either as an agent or an independent contractor. [1988 c 68 § 1.]

RCW 82.08.0315 Exemptions—Rentals or sales related to motion picture or video productions—Exceptions—Certificate. (1) As used in this section:

(a) "Production equipment" means the following when used in motion picture or video production or postproduction: Grip and lighting equipment, cameras, camera mounts including tripods, jib arms, steadicams, and other camera mounts, cranes, dollies, generators, helicopter mounts, helicopters rented for motion picture or video production, walkie talkies, vans, trucks, and other vehicles specifically equipped for motion picture or video production or used solely for production activities, wardrobe and makeup trailers, special effects and stunt equipment, video assists, videotape recorders, cables and connectors, telepromoters [teleprompters], sound recording equipment, and editorial equipment.

(b) "Production services" means motion picture and video processing, printing, editing, duplicating, animation, graphics, special effects, negative cutting, conversions to other formats or media, stock footage, sound mixing, rerecording, sound sweetening, sound looping, sound effects, and automatic dialog replacement.

(c) "Motion picture or video production business" means a person engaged in the production of motion pictures and videotapes for exhibition, sale, or for broadcast by a person other than the person producing the motion picture or videotape.

(2) The tax levied by RCW 82.08.020 does not apply to the rental of production equipment, or the sale of production services, to a motion picture or video production business.

(3) The exemption provided for in this section shall not apply to rental of production equipment, or the sale of production services, to a motion picture or video production business that is engaged, to any degree, in the production of erotic material, as defined in RCW 9.68.050.

(4) In order to claim an exemption under this section, the purchaser must provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files. [1997 c 61 § 1; 1995 2nd sp.s. c 5 § 1.]

Effective date—1995 2nd sp.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 2nd sp.s. c 5 § 3.]

RCW 82.08.0316 Exemptions—Sales of cigarettes by Indian retailers. The tax levied by RCW 82.08.020 does not apply to sales of

cigarettes by an Indian retailer during the effective period of a cigarette tax contract subject to RCW 43.06.455 or a cigarette tax agreement under RCW 43.06.465 or 43.06.466. [2008 c 228 § 3; 2005 c 11 § 3; 2001 c 235 § 4.]

Authorization for agreement—Effective date—2008 c 228: See notes following RCW 43.06.466.

Findings—Intent—Explanatory statement—Effective date—2005 c 11: See notes following RCW 43.06.465.

Intent—Finding—2001 c 235: See RCW 43.06.450.

RCW 82.08.0317 Exemptions—Sales of motor vehicles to tribes or tribal members. (1) (a) State sales tax is not imposed on the sale of a motor vehicle: (i) If delivered to a tribe or tribal member in their Indian country, or (ii) if the sale is made to a tribe or tribal member in their Indian country. A tribal member is not required to reside in Indian country for the exemption under this section to apply. However, the tribal member must have tax exempt status as a member of the tribe upon whose Indian country delivery is made.

(b) In order to substantiate the tax exempt status of a tribal member, the seller must require presentation of one of the following:

(i) The buyer's tribal membership or citizenship card;
(ii) The buyer's certificate of tribal enrollment; or
(iii) A letter signed by a tribal official confirming the buyer's tribal membership status.

(c) (i) To establish delivery for purposes of this section, the motor vehicle must be delivered to the tribe or tribal member in their Indian country. The seller must document the delivery by completing a declaration, which must be signed by the seller and the buyer. The declaration must be limited to attestation regarding the location of delivery and the enrollment status of the tribal member. The department may develop a form for the declaration.

(ii) No other proof of delivery may be accepted in place of or required in addition to the requirements in (c) (i) of this subsection.

(2) If the sale is made to the tribe or tribal member in their Indian country, the requirements in subsection (1) (c) of this section do not apply.

(3) The seller must retain copies of the documentation required under subsection (1) of this section for the period required in RCW 82.32.070.

(4) Nothing in this section may be construed to affect, amend, or modify federal law or Washington state tax law as applied to a tribal member or tribe.

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

(a) "Indian country" has the same meaning as provided in 18 U.S.C. Sec. 1151.

(b) "Tribe" means a federally recognized tribe.

(c) "Tribal member" means an enrolled member of a federally recognized tribe. [2016 c 232 § 1.]

RCW 82.08.0318 Exemptions—Sales of vapor products by Indian retailers. (1) The tax levied by RCW 82.08.020 does not apply to sales of vapor products by an Indian retailer during the effective period of a vapor product tax contract subject to RCW 43.06.510 or a vapor product tax agreement under RCW 43.06.515.

(2) The definitions in RCW 43.06.505 apply to this section.
[2019 c 445 § 305.]

Automatic expiration date and tax preference performance statement exemption—2019 c 445: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2019 c 445 § 405.]

Conflict with federal requirements—Effective date—2019 c 445:
See RCW 82.25.900 and 82.25.901.

RCW 82.08.032 Exemption—Sales, rental, or lease of used park model trailers. The tax imposed by RCW 82.08.020 shall not apply to:

(1) Sales of used park model trailers, as defined in RCW 82.45.032;

(2) The renting or leasing of used park model trailers, as defined in RCW 82.45.032, when the rental agreement or lease exceeds thirty days in duration. [2001 c 282 § 3.]

Intent—2001 c 282: "It is the intent of the legislature to promote fairness in the application of tax. Therefore, for the purposes of excise tax, park model trailers will be taxed in the same manner as mobile homes." [2001 c 282 § 1.]

Effective date—2001 c 282: "This act takes effect August 1, 2001." [2001 c 282 § 5.]

RCW 82.08.033 Exemptions—Sales of used mobile homes or rental or lease of mobile homes. The tax imposed by RCW 82.08.020 shall not apply to:

(1) Sales of used mobile homes as defined in RCW 82.45.032.

(2) The renting or leasing of mobile homes if the rental agreement or lease exceeds thirty days in duration and if the rental or lease of such mobile home is not conducted jointly with the provision of short-term lodging for transients. [1986 c 211 § 2; 1979 ex.s. c 266 § 3.]

RCW 82.08.034 Exemptions—Sales of used floating homes or rental or lease of used floating homes. The tax imposed by RCW 82.08.020 shall not apply to:

(1) Sales of used floating homes, as defined in RCW 82.45.032;

(2) The renting or leasing of used floating homes, as defined in RCW 82.45.032, when the rental agreement or lease exceeds thirty days in duration. [1984 c 192 § 3.]

RCW 82.08.035 Exemption for pollution control facilities. See chapter 82.34 RCW.

RCW 82.08.036 Exemptions—Vehicle battery core deposits or credits—Replacement vehicle tire fees—"Core deposits or credits" defined. The tax levied by RCW 82.08.020 shall not apply to consideration: (1) Received as core deposits or credits in a retail or wholesale sale; or (2) received or collected upon the sale of a new replacement vehicle tire as a fee imposed under RCW 70A.205.405. For purposes of this section, the term "core deposits or credits" means the amount representing the value of returnable products such as batteries, starters, brakes, and other products with returnable value added for the purpose of recycling or remanufacturing. [2020 c 20 § 1475; 1989 c 431 § 45.]

RCW 82.08.037 Credits and refunds for bad debts. (1) A seller is entitled to a credit or refund for sales taxes previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

(2) For purposes of this section, "bad debts" does not include:

- (a) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;
- (b) Expenses incurred in attempting to collect debt;
- (c) Debts sold or assigned by the seller to third parties, where the third party is without recourse against the seller; and
- (d) Repossessed property.

(3) If a credit or refund of sales tax is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount collected must be paid and reported on the return filed for the period in which the collection is made.

(4) Payments on a previously claimed bad debt are applied first proportionally to the taxable price of the property or service and the sales or use tax thereon, and secondly to interest, service charges, and any other charges.

(5) If the seller uses a certified service provider as defined in RCW 82.32.020 to administer its sales tax responsibilities, the certified service provider may claim, on behalf of the seller, the credit or refund allowed by this section. The certified service provider must credit or refund the full amount received to the seller.

(6) The department must allow an allocation of bad debts among member states to the streamlined sales tax agreement, as defined in RCW 82.58.010(1), if the books and records of the person claiming bad debts support the allocation.

(7) A person's right to claim a credit or refund under this section is not assignable. No person other than the original seller in the transaction that generated the bad debt or, as provided in subsection (5) of this section, a certified service provider, is entitled to claim a credit or refund under this section. If the original seller in the transaction that generated the bad debt has sold or assigned the debt instrument to a third party with recourse, the original seller may claim a credit or refund under this section only after the debt instrument is reassigned by the third party to the original seller. [2010 1st sp.s. c 23 § 1502; 2007 c 6 § 102; 2004 c 153 § 302; 2003 c 168 § 212; 1982 1st ex.s. c 35 § 35.]

Intent—2010 1st sp.s. c 23 §§ 1502 and 1503: "The legislature intends with sections 1502 and 1503 of this act to supersede the holding of the supreme court of the state of Washington in *Puget Sound*

National Bank v. Department of Revenue, 123 Wn.2d 284 (1994)." [2010 1st sp.s. c 23 § 1501.]

Application—2010 1st sp.s. c 23 §§ 1502 and 1503: "Sections 1502 and 1503 of this act apply to claims for credit or refund filed with the department of revenue after June 30, 2010." [2010 1st sp.s. c 23 § 1719.]

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

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

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

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

Bad debts—Intent—2004 c 153 §§ 302-305: "For the purposes of sections 302 through 305 of this act, the legislature does not intend by any provision of this act relating to bad debts, and did not intend by any provision of chapter 168, Laws of 2003 relating to bad debts, to affect the holding of the supreme court of the state of Washington in *Puget Sound National Bank v. the Department of Revenue*, 123 Wn. 2nd 284 (1994)." [2004 c 153 § 301.]

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

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

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

RCW 82.08.040 Consignee, factor, bailee, auctioneer deemed seller. (1) Every consignee, bailee, factor, or auctioneer selling or calling for bids on personal property belonging to another, is deemed the seller of such personal property within the meaning of this chapter. All sales made by such persons are subject to the provisions of this chapter even though the sale would have been exempt from the tax imposed in this chapter had it been made directly by the owner of the property sold.

(2)(a) Except as provided in (b) of this subsection (2), every consignee, bailee, factor, or auctioneer must collect and remit the amount of tax due under this chapter with respect to sales made or called by that seller.

(b) If the owner of the property sold is engaged in the business of making sales at retail in this state, the tax imposed under this chapter may be remitted by such owner under such rules as the department may adopt. [2009 c 535 § 1105; 1975 1st ex.s. c 278 § 46; 1961 c 15 § 82.08.040. Prior: 1939 c 225 § 8; 1935 c 180 § 18; RRS § 8370-18.]

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

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

RCW 82.08.050 Buyer to pay, seller to collect tax—Statement of tax—Exception—Penalties. (1) The tax imposed in this chapter must be paid by the buyer to the seller. Each seller must collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department under the provisions of RCW 82.08.060.

(2) The tax required by this chapter, to be collected by the seller, is deemed to be held in trust by the seller until paid to the department. Any seller who appropriates or converts the tax collected to the seller's own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(3) Except as otherwise provided in this section, if any seller fails to collect the tax imposed in this chapter or, having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is, nevertheless, personally liable to the state for the amount of the tax.

(4) Sellers are not relieved from personal liability for the amount of the tax unless they maintain proper records of exempt or nontaxable transactions and provide them to the department when requested.

(5) Sellers are not relieved from personal liability for the amount of tax if they fraudulently fail to collect the tax or if they solicit purchasers to participate in an unlawful claim of exemption.

(6) Sellers are not relieved from personal liability for the amount of tax if they accept an exemption certificate from a purchaser claiming an entity-based exemption if:

(a) The subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller in Washington; and

(b) Washington provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in Washington. Graying out exemption reason types on a uniform form and posting it on the department's website is a clear and affirmative indication that the grayed out exemptions are not available.

(7) (a) Sellers are relieved from personal liability for the amount of tax if they obtain a fully completed exemption certificate or capture the relevant data elements required under the streamlined sales and use tax agreement within ninety days, or a longer period as may be provided by rule by the department, subsequent to the date of sale.

(b) If the seller has not obtained an exemption certificate or all relevant data elements required under the streamlined sales and use tax agreement within the period allowed subsequent to the date of sale, the seller may, within one hundred twenty days, or a longer period as may be provided by rule by the department, subsequent to a

request for substantiation by the department, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith.

(c) Sellers are relieved from personal liability for the amount of tax if they obtain a blanket exemption certificate for a purchaser with which the seller has a recurring business relationship. The department may not request from a seller renewal of blanket exemption certificates or updates of exemption certificate information or data elements if there is a recurring business relationship between the buyer and seller. For purposes of this subsection (7)(c), a "recurring business relationship" means at least one sale transaction within a period of twelve consecutive months.

(d) Sellers are relieved from personal liability for the amount of tax if they obtain a copy of a direct pay permit issued under RCW 82.32.087.

(8) The amount of tax, until paid by the buyer to the seller or to the department, constitutes a debt from the buyer to the seller. Any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter is guilty of a misdemeanor.

(9) Except as otherwise provided in this subsection, the tax required by this chapter to be collected by the seller must be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. Except as otherwise provided in this subsection, for purposes of determining the tax due from the buyer to the seller and from the seller to the department it must be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter. But if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price may not be considered the selling price.

(10) Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax. If the department proceeds directly against the buyer for collection of the tax as authorized in this subsection, the department may add a penalty of ten percent of the unpaid tax to the amount of the tax due for failure of the buyer to pay the tax to the seller, regardless of when the tax may be collected by the department. In addition to the penalty authorized in this subsection, all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, apply. For the sole purpose of applying the various provisions of chapter 82.32 RCW, the twenty-fifth day of the month following the tax period in which the purchase was made will be considered as the due date of the tax.

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

(a) "Exemption certificate" means documentation furnished by a buyer to a seller to claim an exemption from sales tax. An exemption certificate includes a reseller permit or other documentation

authorized in RCW 82.04.470 furnished by a buyer to a seller to substantiate a wholesale sale.

(b) "Seller" includes a certified service provider, as defined in RCW 82.32.020, acting as agent for the seller. [2017 3rd sp.s. c 28 § 211; 2010 c 112 § 8; 2010 c 106 § 217. Prior: 2009 c 563 § 206; 2009 c 289 § 2; 2007 c 6 § 1202; prior: 2003 c 168 § 203; 2003 c 76 § 3; 2003 c 53 § 400; 2001 c 188 § 4; 1993 sp.s. c 25 § 704; 1992 c 206 § 2; 1986 c 36 § 1; 1985 c 38 § 1; 1971 ex.s. c 299 § 7; 1965 ex.s. c 173 § 15; 1961 c 15 § 82.08.050; prior: 1951 c 44 § 1; 1949 c 228 § 6; 1941 c 71 § 3; 1939 c 225 § 11; 1937 c 227 § 7; 1935 c 180 § 21; Rem. Supp. 1949 § 8370-21.]

Findings—Intent—2017 3rd sp.s. c 28 §§ 201-214: See note following RCW 82.08.0531.

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

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

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

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

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

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

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

Intent—2003 c 76: "It is the intent of the legislature to exempt from business and occupation tax and to relieve from the obligation to collect sales and use tax from certain sellers with very limited connections to Washington. These sellers are currently relieved from the obligation to collect sales and use tax because of the provisions of the federal internet tax freedom act. The legislature intends to continue to relieve these particular sellers from that obligation in the event that the federal internet tax freedom act is not extended. The legislature further intends that any relief from tax obligations provided by this act expire at such time as the United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers, or a court of competent jurisdiction, in a judgment not subject to review, determines that a state can impose sales and use tax collection duties on remote sellers." [2003 c 76 § 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—Intent—Effective date—2001 c 188: See notes following RCW 82.32.087.

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

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

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

Project on exemption reporting requirements: RCW 82.32.440.

RCW 82.08.052 Remote seller—Nexus. (1) (a) From October 1, 2018, through December 31, 2019, a seller is obligated to collect and remit to the department the taxes imposed under this chapter, except as otherwise provided in RCW 82.08.0531(2) and this subsection, if the seller, in the current or immediately preceding calendar year, had:

(i) More than one hundred thousand dollars of cumulative gross receipts from this state;

(ii) Subject to the limitation in (c) (ii) of this subsection (1), two hundred or more separate transactions for the delivery of products into this state; or

(iii) Subject to the limitation in RCW 82.32.531, physical presence in this state under RCW 82.04.067.

(b) Cumulative gross receipts counting toward the threshold in (a) (i) of this subsection include a person's gross income of the business from all retail sales made by the seller and sourced to this state under RCW 82.32.730.

(c) (i) Transactions counting toward the threshold in (a) (ii) of this subsection include all retail sales transactions made by the seller and sourced to this state under RCW 82.32.730.

(ii) From March 14, 2019, a seller is relieved of the obligation to collect the taxes imposed under this chapter and remit those taxes to the department if that obligation arose solely based on the threshold in (a) (ii) of this subsection.

(iii) For purposes of the threshold in (a) (ii) of this subsection "transaction" means an agreement to furnish a product or products for consideration, and includes a sale as defined in RCW 82.04.040.

(iv) The term "transaction" does not include an agreement if the agreement is canceled or rescinded before any of the products are delivered to the buyer or other recipient designated by the buyer, the seller retains no part of the consideration from the buyer, and the seller did not collect from the buyer any tax imposed or authorized under this title.

(v) With regard to agreements requiring multiple payments by the consumer, such as a lease, rental, or installment sale, such agreements count as a single transaction for purposes of this subsection, regardless of the number of payments required under the agreement. However, any modification of such an agreement that provides for additional payments is counted as an additional transaction.

(d) (i) Subject to (b) and (c) of this subsection (1), for a marketplace facilitator, receipts and transactions counting toward the thresholds in (a) (i) and (ii) of this subsection include, in addition to the cumulative gross receipts and separate transactions of its own sales, the cumulative gross receipts and separate transactions from sales by all marketplace sellers through the marketplace facilitator's

marketplace, including marketplace sellers that are not obligated to collect the taxes under this chapter pursuant to the provisions of this section.

(ii) For a purchase made by one consumer through a marketplace facilitator, where the purchase involves sales by multiple marketplace sellers, the purchase is deemed to be one transaction for the marketplace facilitator and one transaction apiece for each marketplace seller.

(2) Beginning January 1, 2020, a seller with a substantial nexus with this state under RCW 82.04.067 is obligated to collect and remit to the department the taxes imposed under this chapter.

(3) (a) For purposes of this section, the following definitions apply:

(i) "Apportionable income" has the same meaning as provided in RCW 82.04.460.

(ii) "Gross income of the business" has the same meaning as provided in RCW 82.04.080.

(iii) "Product" has the same meaning as provided in RCW 82.32.023.

(b) The definitions in RCW 82.13.010 apply to this section through June 30, 2019.

(4) (a) A seller whose obligation to collect the taxes imposed under this chapter arises after October 1, 2018, must begin collecting taxes imposed under this chapter as follows:

(i) For a remote seller, on the first day of the first calendar month that is at least thirty days from the date that the remote seller becomes required under subsection (1) or (2) of this section to collect the taxes imposed under this chapter.

(ii) For a seller that has a physical presence in this state, immediately upon establishing a tax collection obligation under subsection (1) (a) (iii) or (2) of this section.

(b) Nothing in this subsection (4) affects the ongoing tax collection obligation of any seller that was required, or elected, to collect the taxes imposed under this chapter on or before October 1, 2018.

(5) This section is subject to RCW 82.32.762. [2019 c 8 § 106; 2015 3rd sp.s. c 5 § 202.]

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

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

Application—2017 c 323 § 305: "Section 305 of this act applies retroactively for the period January 1, 2015, through December 31, 2015." [2017 c 323 § 306.]

Construction—2017 c 323: "Nothing in section 204, chapter 5, Laws of 2015 3rd sp. sess. may be construed as affecting the taxable status in calendar year 2015 of any person with a substantial nexus with this state under RCW 82.04.067 any time on or after January 1, 2015, and before September 1, 2015, with respect to business and occupation taxes on apportionable activities as defined in RCW 82.04.460." [2017 c 323 § 305.]

Effective dates—2015 3rd sp.s. c 5: "(1) Except as provided otherwise in this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect August 1, 2015.

(2) Part II of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect September 1, 2015." [2015 3rd sp.s. c 5 § 501.]

Finding—Intent—2015 3rd sp.s. c 5: "(1) The commerce clause of the United States Constitution as currently interpreted by the United States supreme court prohibits states from imposing sales or use tax collection obligations on out-of-state businesses unless the business has a substantial nexus with the taxing state.

(2) The legislature recognizes that under the United States supreme court's decision in *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), a substantial nexus for sales and use tax collection purposes requires that the taxpayer have a physical presence in the taxing state.

(3) The legislature further recognizes that the requisite physical presence can be established directly through a taxpayer's own activities in the taxing state, or indirectly, through independent contractors, agents, or other representatives who act on behalf of the taxpayer in the taxing state.

(4) However, the legislature finds that because the United States supreme court has not clearly defined the circumstances under which a physical presence is sufficient to establish a substantial nexus for tax purposes, frequent conflicts have arisen throughout the country among state taxing authorities, taxpayers, tax practitioners, and courts.

(5) Therefore, the legislature intends to provide more clarity for out-of-state sellers that compensate Washington residents for referring customers to the out-of-state seller by providing clear statutory guidelines for determining when these out-of-state sellers are required to collect Washington's retail sales tax." [2015 3rd sp.s. c 5 § 201.]

RCW 82.08.0531 Marketplace facilitators—When deemed seller agents—Recordkeeping—Liability. (1) For purposes of this chapter and chapters 82.04 and 82.12 RCW, a marketplace facilitator is deemed to be an agent of any marketplace seller making retail sales through the marketplace facilitator's marketplace.

(2) Beginning October 1, 2018, marketplace facilitators subject to a tax collection obligation under RCW 82.08.052 (1) or (2) must collect and remit to the department retail sales tax on all taxable retail sales made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller is subject to a tax collection obligation under RCW 82.08.052 (1) or (2). Beginning January 1, 2020, the collection obligation of a marketplace facilitator under this chapter also applies to any other taxes and fees, as defined under RCW 82.02.260, that are imposed on a retail sale made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of

whether the marketplace seller has a tax collection obligation under RCW 82.08.052 (1) or (2).

(3) In addition to other applicable recordkeeping requirements, the department may require a marketplace facilitator to provide or make available to the department any information the department determines is reasonably necessary to enforce the provisions of this chapter and *chapter 82.13 RCW. Such information may include documentation of sales made by marketplace sellers through the marketplace facilitator's marketplace. The department may prescribe by rule the form and manner for providing this information.

(4) (a) Beginning July 1, 2019, to ensure that marketplace sellers have the necessary information to timely and accurately file their excise tax returns with the department pursuant to RCW 82.32.045, a marketplace facilitator must, at a minimum, provide each of its marketplace sellers with access, through a written report or other means, to gross sales information for all Washington sales made as an agent of the marketplace seller under this section during the immediately preceding month. Marketplace facilitators must provide such access within fifteen calendar days following the end of each month.

(b) If a marketplace seller does not receive the gross sales information for all Washington sales through a marketplace facilitator, as required under (a) of this subsection (4), the marketplace seller may determine its business and occupation tax liability under chapter 82.04 RCW based on a reasonable method of estimating Washington sales as may be required or approved by the department.

(c) For purposes of this subsection, "Washington sales" means any sale sourced to this state under RCW 82.32.730, regardless of whether the sale is a retail sale.

(5) If a marketplace facilitator has fully complied with the requirements of subsection (4) (a) of this section, the marketplace facilitator is relieved of liability under this chapter and chapter 82.12 RCW for failure to collect the correct amount of tax to the extent that the marketplace facilitator can show to the department's satisfaction that the error was due to incorrect information given to the marketplace facilitator by the marketplace seller, unless the marketplace facilitator and marketplace seller are affiliated persons. Where the marketplace facilitator is relieved of liability under this subsection (5), the marketplace seller is solely liable for the amount of uncollected tax due.

(6) (a) Subject to the limits in (b) and (c) of this subsection (6), a marketplace facilitator that has fully complied with the requirements of subsection (4) (a) of this section is relieved of liability under this chapter and chapter 82.12 RCW for the failure to collect tax on taxable retail sales to the extent that the marketplace facilitator can show to the department's satisfaction that:

(i) The taxable retail sale was made through the marketplace facilitator's marketplace;

(ii) The taxable retail sale was made solely as the agent of a marketplace seller, and the marketplace facilitator and marketplace seller are not affiliated persons; and

(iii) The failure to collect sales tax was not due to an error in sourcing the sale under RCW 82.32.730.

(b) Liability relief for a marketplace facilitator under (a) of this subsection (6) for a calendar year is limited as follows:

(i) For calendar year 2018, the liability relief may not exceed ten percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales facilitated by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(ii) For calendar year 2019, the liability relief may not exceed five percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(iii) The provisions of this subsection (6) do not apply to retail sales made after December 31, 2019.

(c) For purposes of this subsection (6), a retail sale is deemed to be facilitated by a marketplace facilitator when the marketplace facilitator either:

(i) Accepts the order for the product;

(ii) Communicates to the marketplace seller the buyer's offer to purchase the product;

(iii) Accepts the buyer's payment for the product; or

(iv) Delivers or arranges for delivery of the product.

(d) Where the marketplace facilitator is relieved of liability under this subsection (6), the marketplace seller is also relieved of liability for the amount of uncollected tax due, subject to the limitations in subsection (7) of this section.

(e) The department may by rule determine the manner in which a taxpayer may claim the liability relief provided under this subsection.

(7) Except as otherwise provided in this section, a marketplace seller obligated to collect the taxes imposed under this chapter and chapter 82.12 RCW is not required to collect such taxes on all taxable retail sales through a marketplace operated by a marketplace facilitator if the marketplace seller has obtained documentation from the marketplace facilitator indicating that the marketplace facilitator is registered with the department and will collect all applicable taxes due under this chapter and chapter 82.12 RCW on all taxable retail sales made on behalf of the marketplace seller through the marketplace operated by the marketplace facilitator. The documentation required by this subsection (7) must be provided in a form and manner prescribed by or acceptable to the department. This subsection (7) does not relieve a marketplace seller from liability for uncollected taxes due under this chapter or chapter 82.12 RCW resulting from a marketplace facilitator's failure to collect the proper amount of tax due when the error was due to incorrect information given to the marketplace facilitator by the marketplace seller.

(8) No class action may be brought against a marketplace facilitator in any court of this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection affects a purchaser's right to seek a refund from the department as provided under chapter 82.32 RCW.

(9) Nothing in this section affects the obligation of any purchaser to remit sales or use tax and any other applicable taxes and fees, as to any applicable taxable transaction in which the seller or the seller's agent does not collect and remit sales tax. [2021 c 145 § 10; 2019 c 8 § 201; 2017 3rd sp.s. c 28 § 203.]

***Reviser's note:** Chapter 82.13 RCW was repealed by 2019 c 8 § 301.

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

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

Findings—Intent—2017 3rd sp.s. c 28 §§ 201-214: "(1) The legislature finds that states fail to collect more than twenty-three billion dollars annually in sales taxes from remote sales over the internet and through catalogs. The legislature further finds that Washington and its local governments will lose out on an estimated three hundred fifty-three million dollars in sales and use taxes in fiscal year 2018 from remote sales, reducing funds that would otherwise be available for the public education system, health care services, infrastructure, and other vital public services.

(2) The legislature finds that Colorado adopted a law requiring out-of-state retailers that do not collect Colorado's sales tax to report tax-related information to their Colorado customers and the Colorado department of revenue. The legislature further finds that in 2016 the United States court of appeals for the tenth circuit upheld that law.

(3) The legislature intends by this act to address the significant harm and unfairness brought about by the physical presence nexus rule. To achieve this objective, this act adopts a new program. Under the new program, remote sellers meeting a specified threshold of gross receipts from retail sales into this state would have the option to either collect retail sales or use tax on taxable retail sales into this state or comply with certain sales and use tax notice and reporting provisions. This option is also available to other persons such as marketplace facilitators for facilitated sales on behalf of third-party remote sellers. The sales and use tax notice and reporting provisions in this act are similar to the multistate tax commission's draft model sales and use tax notice and reporting statute and Colorado's sales and use tax notice and reporting law." [2017 3rd sp.s. c 28 § 201.]

Existing rights and liability—2017 3rd sp.s. c 28: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2017 3rd sp.s. c 28 § 602.]

Severability—2017 3rd sp.s. c 28: "(1) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

(2) If the department of revenue is prevented from enforcing chapter 82.08 or 82.12 RCW against persons without a physical presence in this state because any provision of this act or its application to any person or circumstance is held invalid, the department of revenue must impose such provisions to the fullest extent allowed under the Constitution and laws of the United States." [2017 3rd sp.s. c 28 § 603.]

Application—2017 3rd sp.s. c 28: "The tax collection, reporting, and payment obligations imposed by this act apply prospectively only." [2017 3rd sp.s. c 28 § 604.]

Effective dates—2018 c 92; 2017 3rd sp.s. c 28: "(1) Except as otherwise provided in this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(2) Sections 101 through 106 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect August 1, 2017.

(3) Section 213 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 23, 2017.

(4) Part III of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2017.

(5) Sections 107 through 109 and 502 of this act take effect January 1, 2018." [2018 c 92 § 2; 2017 3rd sp.s. c 28 § 605.]

RCW 82.08.054 Computation of tax due. Sellers shall compute the tax due under this chapter and chapters 82.12 and 82.14 RCW by carrying the computation to the third decimal place and rounding to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. Sellers may elect to compute the tax due on a transaction on an item or an invoice basis. This rounding rule shall be applied to the aggregated state and local taxes. [2003 c 168 § 210.]

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

RCW 82.08.055 Advertisement of price. A seller may advertise the price as including the tax or that the seller is paying the tax, subject to the following conditions:

(1) Unless the advertised price is one in a listed series, the words "tax included" are stated immediately following the advertised price and in print size at least half as large as the advertised price;

(2) If the advertised prices are listed in a series, the words "tax included in all prices" are placed conspicuously at the head of the list and in the same print size as the advertised prices;

(3) If a price is advertised as "tax included," the price listed on any price tag shall be shown in the same manner; and

(4) All advertised prices and the words "tax included" are stated in the same medium, be it oral or visual, and if oral, in substantially the same inflection and volume. [1985 c 38 § 2.]

RCW 82.08.060 Collection of tax—Methods and schedules. The department of revenue shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be collected by the seller from the buyer under this chapter. The methods and schedules prescribed shall be adopted so as to eliminate the collection of fractions of one cent and so as to provide that the aggregate collections of all taxes by the seller shall, insofar as practicable, equal the amount of tax imposed by this chapter. Such schedules may provide that no tax need be collected from the buyer upon sales below a stated sum and may be amended from time to time to accomplish the purposes set forth herein. [1975 1st ex.s. c 278 § 47; 1961 c 15 § 82.08.060. Prior: 1951 c 44 § 2; 1941 c 76 § 4; 1935 c 180 § 22; Rem. Supp. 1941 § 8370-22.]

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

RCW 82.08.064 Tax rate changes. (1) A sales and use tax rate change under this chapter or chapter 82.12 RCW shall be imposed (a) no sooner than seventy-five days after its enactment into law and (b) only on the first day of January, April, July, or October.

(2) Subsection (1) of this section does not apply to the tax rate change in section 301, chapter 361, Laws of 2003.

(3) (a) A sales and use tax rate increase under this chapter or chapter 82.12 RCW imposed on services applies to the first billing period starting on or after the effective date of the increase.

(b) A sales and use tax rate decrease under this chapter or chapter 82.12 RCW imposed on services applies to bills rendered on or after the effective date of the decrease.

(c) For the purposes of this subsection (3), "services" means retail services such as installing and constructing and retail services such as telecommunications, but does not include services such as tattooing. [2003 c 361 § 304; 2003 c 168 § 205; 2000 c 104 § 3.]

Reviser's note: This section was amended by 2003 c 168 § 205 and by 2003 c 361 § 304, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Application—Local service ending after August 1, 2013—2013 2nd sp.s. c 8: See note following RCW 82.08.0289.

Findings—2003 c 361: See note following RCW 82.38.030.

Effective dates—2003 c 361: See note following RCW 82.08.020.

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

Findings—Intent—Effective date—2000 c 104: See notes following RCW 82.14.055.

RCW 82.08.066 Deemed location for mobile telecommunications services. For the purposes of this chapter, mobile telecommunications services are deemed to have occurred at the customer's place of primary use, regardless of where the mobile telecommunications services originate, terminate, or pass through, consistent with the mobile telecommunications sourcing act, P.L. 106-252, 4 U.S.C. Secs. 116 through 126. The definitions in RCW 82.04.065 apply to this section. [2002 c 67 § 5.]

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

RCW 82.08.080 Vending machine and other sales. (1) The department of revenue may authorize a seller to pay the tax levied under this chapter upon sales made under conditions of business such as to render impracticable the collection of the tax as a separate item and waive collection of the tax from the customer. Where sales are made by a vending machine that results in delivery of the merchandise in single purchases of smaller value than the minimum sale upon which a one cent tax may be collected from the purchaser, according to the schedule provided by the department under authority of RCW 82.08.060, and where the design of the sales device is such that multiple sales of items are not possible or cannot be detected so as practically to assess a tax, in such a case the selling price for the purposes of the tax imposed under RCW 82.08.020 shall be sixty percent of the gross receipts of the vending machine through which such sales are made.

(2) No such authority shall be granted except upon application to the department and unless the department, after hearing, finds that the conditions of the applicant's business are such as to render impracticable the collection of the tax in the manner otherwise provided. The department, by rule, may provide that the applicant, under this section, furnish a proper bond sufficient to secure the payment of the tax.

(3) "Vending machine" means a machine or other mechanical device that accepts payment and:

- (a) Dispenses tangible personal property;
- (b) Provides facilities for installing, repairing, cleaning, altering, imprinting, or improving tangible personal property; or
- (c) Provides a service to the buyer. [2004 c 153 § 409; 1986 c 36 § 2; 1975 1st ex.s. c 278 § 48; 1963 c 244 § 2; 1961 c 15 § 82.08.080. Prior: 1937 c 227 § 8; 1935 c 180 § 24; RRS § 8370-24.]

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

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

RCW 82.08.090 Installment sales and leases. In the case of installment sales and leases of personal property, the department of revenue, by regulation, may provide for the collection of taxes upon the installments of the purchase price, or amount of rental, as of the time the same fall due. [1975 1st ex.s. c 278 § 49; 1961 c 15 §

82.08.090. Prior: 1959 ex.s. c 3 § 8; 1959 c 197 § 4; prior: 1941 c 178 § 9, part; 1939 c 225 § 12, part; 1935 c 180 § 25, part; Rem. Supp. 1941 § 8370-25, part.]

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

RCW 82.08.100 Cash receipts taxpayers—Bad debts. The department of revenue, by general regulation, shall provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his or her cash receipts for each reporting period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period. A taxpayer filing returns on a cash receipts basis is not required to pay such tax on debt subject to credit or refund under RCW 82.08.037. [2013 c 23 § 318; 2004 c 153 § 303; 1982 1st ex.s. c 35 § 37; 1975 1st ex.s. c 278 § 50; 1961 c 15 § 82.08.100. Prior: 1959 ex.s. c 3 § 9; 1959 c 197 § 5; prior: 1941 c 178 § 9, part; 1939 c 225 § 12, part; 1935 c 180 § 25, part; Rem. Supp. 1941 § 8370-25, part.]

Bad debts—Intent—2004 c 153: See note following RCW 82.08.037.

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

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

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

RCW 82.08.110 Sales from vehicles. In the case of a person who has no fixed place of business and sells from one or more vehicles, each such vehicle shall constitute a "place of business" within the meaning of chapter 82.32 RCW. [1961 c 15 § 82.08.110. Prior: 1935 c 180 § 26; RRS § 8370-26.]

RCW 82.08.120 Refunding or rebating of tax by seller prohibited—Penalty. Whoever, excepting as expressly authorized by this chapter, refunds, remits, or rebates to a buyer, either directly or indirectly and by whatever means, all or any part of the tax levied by this chapter shall be guilty of a misdemeanor. The violation of this section by any person holding a license granted by the state or any political subdivision thereof shall be sufficient grounds for the cancellation of the license of such person upon written notification by the department of revenue to the proper officer of the department granting the license that such person has violated the provisions of this section. Before any license shall be canceled hereunder, the licensee shall be entitled to a hearing before the department granting the license under such regulations as the department may prescribe. [1985 c 38 § 4; 1975 1st ex.s. c 278 § 51; 1961 c 15 § 82.08.120. Prior: 1939 c 225 § 13; 1935 c 180 § 27; RRS § 8370-27.]

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

RCW 82.08.130 Reseller's permit—Purchase and resale—Rules. (1) If a buyer normally is engaged in both consuming and reselling certain types of personal property, the retail sale of which is taxable under this chapter, and the buyer is not able to determine at the time of purchase whether the particular property acquired will be consumed or resold, the buyer may use a reseller permit or other documentation authorized under RCW 82.04.470 for the entire purchase if the buyer principally resells the property according to the general nature of the buyer's business. The buyer must account for the value of any articles purchased with a reseller permit or other documentation authorized under RCW 82.04.470 that is used by the buyer and remit the deferred sales tax on the property to the department.

(2) A buyer who pays a tax on all purchases and subsequently resells property or services at retail, without intervening use by the buyer, must collect the tax from the purchaser as otherwise provided by law and is entitled to a deduction on the buyer's tax return equal to the cost to the buyer of the property or service resold upon which retail sales tax has been paid. The deduction is allowed only if the taxpayer keeps and preserves records that include the names of the persons from whom the property or services were purchased, the date of the purchase, the type of property or services, the amount of the purchase, and the tax that was paid.

(3) The department must provide by rule for the refund or credit of retail sales tax paid by a buyer for purchases that are later resold without intervening use by the buyer or for purchases that would otherwise have met the definition of wholesale sale if the buyer had provided the seller with a reseller permit or other documentation as authorized in RCW 82.04.470.

(4) Nothing in this section may be construed to authorize a deduction or credit in respect to the purchase of services if the services are not of a type that can be sold at wholesale under the definition of wholesale sale in RCW 82.04.060. [2010 c 112 § 9. Prior: 2009 c 563 § 207; 2009 c 535 § 1106; 1993 sp.s. c 25 § 702.]

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

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

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

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

Reseller's permit: RCW 82.04.470 and 82.32.291.

RCW 82.08.140 Administration. The provisions of RCW 82.04.470 and all of the provisions of chapter 82.32 RCW shall have full force and application with respect to taxes imposed under the provisions of

this chapter. [1961 c 15 § 82.08.140. Prior: 1935 c 180 § 30; RRS § 8370-30.]

RCW 82.08.145 Delivery charges. When computing the tax levied by RCW 82.08.020, if a shipment consists of taxable tangible personal property and nontaxable tangible personal property, and delivery charges are included in the sales price, the seller must collect and remit tax on the percentage of delivery charges allocated to the taxable tangible personal property, but does not have to collect and remit tax on the percentage allocated to exempt tangible personal property. The seller may use either of the following percentages to determine the taxable portion of the delivery charges:

(1) A percentage based on the total sales price of the taxable tangible personal property compared to the total sales price of all tangible personal property in the shipment; or

(2) A percentage based on the total weight of the taxable tangible personal property compared to the total weight of all tangible personal property in the shipment. [2007 c 6 § 801.]

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

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

RCW 82.08.150 Tax on certain sales of intoxicating liquors—Additional taxes for specific purposes—Collection.

(1) There is levied and collected a tax upon each retail sale of spirits in the original package at the rate of fifteen percent of the selling price.

(2) There is levied and collected a tax upon each sale of spirits in the original package at the rate of ten percent of the selling price on sales by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to restaurant spirits retailers.

(3) There is levied and collected an additional tax upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of one dollar and seventy-two cents per liter.

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) An additional tax is imposed upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of seven cents per liter. All revenues collected during any month from this additional tax must be deposited in the state general fund by the twenty-fifth day of the following month.

(6) (a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of three and four-tenths percent of the selling price.

(b) An additional tax is imposed upon retail sale of spirits in the original package to a restaurant spirits retailer at the rate of two and three-tenths percent of the selling price.

(c) An additional tax is imposed upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of forty-one cents per liter.

(d) All revenues collected during any month from additional taxes under this subsection must be deposited in the state general fund by the twenty-fifth day of the following month.

(7) (a) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of one dollar and thirty-three cents per liter.

(b) All revenues collected during any month from additional taxes under this subsection must be deposited by the twenty-fifth day of the following month into the general fund.

(8) The tax imposed in RCW 82.08.020 does not apply to sales of spirits in the original package.

(9) The taxes imposed in this section must be paid by the buyer to the seller, and each seller must collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller must be stated separately from the selling price, and for purposes of determining the tax due from the buyer to the seller, it is conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section. Sellers must report and return all taxes imposed in this section in accordance with rules adopted by the department.

(10) (a) Except as otherwise provided in this subsection, the terms, "spirits" and "package" have the same meaning as provided in chapter 66.04 RCW.

(b) Until July 1, 2023, for the purposes of the taxes imposed under this section, the term "spirits" does not include mini-bottles of spirits sold by a person who possesses a valid endorsement under section 2(6), chapter 48, Laws of 2021 and is licensed as a spirits, beer, and wine restaurant under RCW 66.24.400.

(c) For the purposes of this subsection, "mini-bottles of spirits" means an original factory-sealed container holding not more than 50 milliliters of spirits. [2021 c 48 § 6; 2012 c 2 § 106 (Initiative Measure No. 1183, approved November 8, 2011); 2009 c 479 § 65; 2005 c 514 § 201; 2003 c 167 § 11; 1998 c 126 § 16; 1997 c 321 § 55; 1994 sp.s. c 7 § 903 (Referendum Bill No. 43, approved November 8, 1994); 1993 c 492 § 310; 1989 c 271 § 503; 1983 2nd ex.s. c 3 § 12; 1982 1st ex.s. c 35 § 3; 1981 1st ex.s. c 5 § 25; 1973 1st ex.s. c 204 § 1; 1971 ex.s. c 299 § 9; 1969 ex.s. c 21 § 11; 1965 ex.s. c 173 § 16; 1965 c 42 § 1; 1961 ex.s. c 24 § 2; 1961 c 15 § 82.08.150. Prior: 1959 ex.s. c 5 § 9; 1957 c 279 § 4; 1955 c 396 § 1; 1953 c 91 § 5; 1951 2nd ex.s. c 28 § 5.]

Tax preference performance statement and expiration exemption—
2021 c 48: "This act is exempt from the provisions of RCW 82.32.808 and 82.32.805." [2021 c 48 § 7.]

Findings—Intent—Expiration of temporary authorization—Customer identification—Food requirements—Effective date—2021 c 48: See notes following RCW 66.08.071.

Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183): See notes following RCW 66.24.620.

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

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

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

Effective date—2003 c 167: See note following RCW 66.24.244.

Report to legislature—2003 c 167: See note following RCW 66.24.250.

Effective date—1998 c 126: See note following RCW 66.20.010.

Effective date—1997 c 321: See note following RCW 66.24.010.

Contingent partial referendum—1994 sp.s. c 7 §§ 901-909: See note following RCW 66.24.210.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates—1989 c 271: See note following RCW 66.28.200.

Severability—1989 c 271: See note following RCW 9.94A.510.

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

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

Effective date—1981 1st ex.s. c 5: See RCW 66.98.100.

Effective date—1973 1st ex.s. c 204: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect the first day of July, 1973." [1973 1st ex.s. c 204 § 4.]

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

Effective date—1969 ex.s. c 21: See note following RCW 66.04.010.

RCW 82.08.155 Spirits tax—Delinquent in reporting or remitting—Penalties.

(1) (a) If the department determines that a taxpayer is more than thirty days delinquent in reporting or remitting spirits taxes on a tax return or assessed by the department, including any applicable penalties and interest on such taxes, the department may request that the liquor and cannabis board suspend the taxpayer's spirits license or licenses and refuse to renew any existing spirits license held by the taxpayer or issue any new spirits license to the taxpayer. The department must provide written notice to the affected taxpayer of the department's request to the liquor and cannabis board.

(b) Before the department may make a request to the liquor and cannabis board as authorized in (a) of this subsection (1), the department must have provided the taxpayer with at least seven calendar days prior written notice. This notice must inform the taxpayer that the department intends to request that the liquor and cannabis board suspend the taxpayer's spirits license or licenses and refuse to renew any existing license of the taxpayer or issue any new spirits license to the taxpayer unless, within seven calendar days of the date of the notice, the taxpayer submits any unfiled tax returns for reporting spirits taxes and remits full payment of its outstanding spirits tax liability to the department or negotiates payment arrangements for the unpaid spirits taxes. The notice required by this subsection (1)(b) must include information listing any unfiled tax returns; the amount of unpaid spirits taxes, including any applicable penalties and interest; who to contact to inquire about payment arrangements; and that the taxpayer may seek administrative review by the department of the notice, and the deadline for seeking such review. Nothing in this subsection (1)(b) requires the department to enter into any payment arrangement proposed by a taxpayer if the department determines that the taxpayer's proposal is not satisfactory.

(c) The department may not make a request to the liquor and cannabis board under (a) of this subsection relating to any spirits taxes that are the subject of pending administrative review by the department.

(2) A taxpayer's right to administrative review of the notice required in subsection (1)(b) of this section:

(a) May be conducted under any rule adopted pursuant to RCW 82.01.060(4) or as a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494; and

(b) Does not include the right to challenge the amount of any spirits taxes assessed by the department if the taxpayer previously sought or could have sought administrative review of the assessment as provided in RCW 82.32.160.

(3) The notices required by this section may be provided electronically in accordance with RCW 82.32.135.

(4) For purposes of this section:

(a) "Spirits license" has the same meaning as in RCW 66.24.010(3)(c); and

(b) "Spirits taxes" means the taxes imposed in RCW 82.08.150.

[2020 c 139 § 14; 2012 c 39 § 1.]

Construction—2012 c 39: "This act must be liberally construed to effectuate the intent of the legislature to provide for the effective collection of liquor taxes imposed in RCW 82.08.150." [2012 c 39 § 9.]

Effective date—2012 c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 15, 2012]." [2012 c 39 § 11.]

RCW 82.08.160 Remittance of tax—Liquor excise tax fund created.

(1) On or before the twenty-fifth day of each month, all taxes collected under RCW 82.08.150 during the preceding month must be remitted to the state department of revenue, to be deposited with the state treasurer. Except as provided in subsections (2), (3), (4), and (5) of this section, upon receipt of such moneys the state treasurer must credit sixty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) and one hundred percent of the sums collected and remitted under RCW 82.08.150 (3) and (4) to the state general fund and thirty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) to a fund which is hereby created to be known as the "liquor excise tax fund."

(2) During the 2012 fiscal year, 66.19 percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the state general fund and the remainder collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the liquor excise tax fund.

(3) During fiscal year 2013, all funds collected under RCW 82.08.150 (1), (2), (3), and (4) must be deposited into the state general fund.

(4) During the 2013-2015 fiscal biennium, seventy-seven and one-half percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the state general fund, and the remainder collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the liquor excise tax fund. The amendments in *this section are curative, clarifying, and remedial and apply retroactively to July 1, 2013.

(5) During the 2015-2017 fiscal biennium, the liquor excise tax fund may be appropriated for the local government fiscal note program in the department of commerce. It is the intent of the legislature to continue these policies in the 2017-2019 fiscal biennium. [2015 3rd sp.s. c 4 § 975; 2014 c 221 § 923; 2013 2nd sp.s. c 4 § 1003; 2012 2nd sp.s. c 5 § 3; 2011 1st sp.s. c 50 § 969; 1982 1st ex.s. c 35 § 4; 1981 1st ex.s. c 5 § 26; 1969 ex.s. c 21 § 12; 1961 c 15 § 82.08.160. Prior: 1955 c 396 § 2.]

***Reviser's note:** "This section" means section 923, chapter 221, Laws of 2014.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective date—2014 c 221: See note following RCW 28A.710.260.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

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

Effective date—1981 1st ex.s. c 5: See RCW 66.98.100.

Effective date—1969 ex.s. c 21: See note following RCW 66.04.010.

RCW 82.08.170 Apportionment and distribution from liquor excise tax fund. (1) Except as provided in subsections (4) and (5) of this section, during the months of January, April, July, and October of each year, the state treasurer must make the transfers required under subsections (2) and (3) of this section from the liquor excise tax fund and then the apportionment and distribution of all remaining moneys in the liquor excise tax fund to the counties, cities, and towns in the following proportions: (a) Twenty percent of the moneys in the liquor excise tax fund must be divided among and distributed to the counties of the state in accordance with the provisions of RCW 66.08.200; and (b) eighty percent of the moneys in the liquor excise tax fund must be divided among and distributed to the cities and towns of the state in accordance with the provisions of RCW 66.08.210.

(2) Each fiscal quarter and prior to making the twenty percent distribution to counties under subsection (1)(a) of this section, the treasurer shall transfer to the liquor revolving fund created in RCW 66.08.170 sufficient moneys to fund the allotments from any legislative appropriations for county research and services as provided under chapter 43.110 RCW.

(3) During the months of January, April, July, and October of each year, the state treasurer must transfer two million five hundred thousand dollars from the liquor excise tax fund to the state general fund.

(4) During calendar year 2012, the October distribution under subsection (1) of this section and the July and October transfers under subsections (2) and (3) of this section must not be made. During calendar year 2013, the January, April, and July distributions under subsection (1) of this section and transfers under subsections (2) and (3) of this section must not be made.

(5) The liquor excise tax fund may be appropriated for the local government fiscal note program in the department of commerce. [2022 c 157 § 20; 2021 c 334 § 998; 2020 c 357 § 919; 2015 3rd sp.s. c 4 § 976; 2012 2nd sp.s. c 5 § 4; 2002 c 38 § 3; 1997 c 437 § 4; 1983 c 3 § 215; 1961 c 15 § 82.08.170. Prior: 1955 c 396 § 3.]

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2020 c 357: See note following RCW 43.79.545.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Effective date—2012 2nd sp.s. c 5: See note following RCW 43.135.045.

Effective date—1997 c 437: See note following RCW 43.110.030.

RCW 82.08.180 Apportionment and distribution from liquor excise tax fund—Withholding for noncompliance. The governor may notify and direct the state treasurer to withhold the revenues to which the counties, cities, and towns are entitled under RCW 82.08.170 if the counties, cities, or towns are found to be in noncompliance pursuant to RCW 36.70A.340. [1991 sp.s. c 32 § 36.]

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

RCW 82.08.190 Bundled transactions—Definitions. The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) (a) "Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where:

- (i) The products are otherwise distinct and identifiable; and
- (ii) The products are sold for one nonitemized price.

(b) A bundled transaction does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

(2) "Distinct and identifiable products" does not include:

(a) Packaging such as containers, boxes, sacks, bags, and bottles, or other materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples of packaging that are incidental or immaterial include grocery sacks, shoeboxes, dry cleaning garment bags, and express delivery envelopes and boxes;

(b) A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge; or

(c) Items included in the definition of sales price in RCW 82.08.010.

(3) "One nonitemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(4) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is:

(a) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service; or

(b) The retail sale of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service; or

(c) A transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis;

(i) As used in this subsection (4)(c), de minimis means the seller's purchase price or sales price of the taxable products is ten percent or less of the total purchase price or sales price of the bundled products;

(ii) Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis;

(iii) Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(d) The retail sale of exempt tangible personal property and taxable tangible personal property where:

(i) The transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, all as defined in this chapter, or medical supplies; and

(ii) Where the seller's purchase price or sales price of the taxable tangible personal property is fifty percent or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent determination for a transaction. [2007 c 6 § 1401.]

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

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

RCW 82.08.195 Bundled transactions—Tax imposed. (1) Except as provided in subsection (6) of this section, a bundled transaction is subject to the tax imposed by RCW 82.08.020 if the retail sale of any of its component products would be subject to the tax imposed by RCW 82.08.020.

(2) The transactions described in RCW 82.08.190(4) (a) and (b) are subject to the tax imposed by RCW 82.08.020 if the service that is the true object of the transaction is subject to the tax imposed by RCW 82.08.020. If the service that is the true object of the transaction is not subject to the tax imposed by RCW 82.08.020, the transaction is not subject to the tax imposed by RCW 82.08.020.

(3) The transaction described in RCW 82.08.190(4)(c) is not subject to the tax imposed by RCW 82.08.020.

(4) The transaction described in RCW 82.08.190(4)(d) is not subject to the tax imposed by RCW 82.08.020.

(5) In the case of a bundled transaction that includes any of the following: Telecommunications service, ancillary service, internet access, or audio or video programming service:

(a) If the price is attributable to products that are taxable and products that are not taxable, the portion of the price attributable

to the nontaxable products are subject to the tax imposed by RCW 82.08.020 unless the seller can identify by reasonable and verifiable standards the portion from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes;

(b) If the price is attributable to products that are subject to tax at different tax rates, the total price is attributable to the products subject to the tax at the highest tax rate unless the seller can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to the tax imposed by RCW 82.08.020 at the lower rate from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes.

(6) The tax imposed by RCW 82.08.020 does not apply in respect to a bundled transaction consisting entirely of the sale of services or of services and prepared food, if the sale is to a resident, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. A single bundled transaction involving both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" has the same meaning as in RCW 82.08.0293.

(7) In the case of the sale of a code that provides a purchaser with the right to obtain more than one digital product or one or more digital products and other products or services, and all of the products and services, digital or otherwise, to be obtained through the use of the code do not have the same sales and use tax treatment, for purposes of the tax imposed by RCW 82.08.020:

(a) The transaction is deemed to be the sale of the products and services to be obtained through the use of the code; and

(b) (i) The tax imposed by RCW 82.08.020 applies to the entire selling price of the code, except as provided in (b) (ii) of this subsection (7).

(ii) If the seller can identify by reasonable and verifiable standards the portion of the selling price attributable to the products and services that are not subject to the tax imposed by RCW 82.08.020 from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes, the tax imposed by RCW 82.08.020 does not apply to that portion of the selling price of the code attributable to the products and services that are not subject to the tax imposed by RCW 82.08.020 nor to that portion of the selling price of the code attributable to any digital goods, the sale of which is exempt under RCW 82.08.0208(3). [2020 c 139 § 15; 2010 c 111 § 601. Prior: 2009 c 535 § 801; 2009 c 483 § 3; 2007 c 6 § 1402.]

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

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

Finding—Intent—Effective date—2009 c 483: See notes following RCW 82.08.0293.

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

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

RCW 82.08.207 Investment data for investment firms. (Expires July 1, 2031.) (1) The tax imposed by RCW 82.08.020 does not apply to sales of standard financial information to qualifying international investment management companies or persons affiliated with a qualifying international investment management company. The exemption provided in this section applies regardless of whether the standard financial information is provided to the buyer in a tangible format or on a tangible storage medium or as a digital product transferred electronically.

(2) Sellers making tax-exempt sales under this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed under this section.

(3) A buyer may not continue to claim the exemption under this section once the buyer has purchased standard financial information during the current calendar year with an aggregate total selling price in excess of fifteen million dollars and an exemption has been claimed under this section or RCW 82.12.207 for such standard financial information. The fifteen million dollar limitation under this subsection does not apply to any other exemption under this chapter that applies to standard financial information. Sellers are not responsible for ensuring a buyer's compliance with the fifteen million dollar limitation under this subsection. Sellers may not be assessed for uncollected sales tax on a sale to a buyer claiming an exemption under this section after having exceeded the fifteen million dollar limitation under this subsection, except as provided in RCW 82.08.050 (4) and (5).

(4) The definitions in this subsection and RCW 82.04.293 apply throughout this section unless the context clearly requires otherwise.

(a) "Qualifying international investment management company" means a person who is eligible for the tax rate in RCW 82.04.290(1).

(b)(i) "Standard financial information" means financial data, facts, or information, or financial information services, not generated, compiled, or developed only for a single customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports.

(ii) For purposes of this subsection (4)(b), "financial market data" means market pricing information, such as for securities, commodities, and derivatives; corporate actions for publicly and privately traded companies, such as dividend schedules and reorganizations; corporate attributes, such as domicile, currencies used, and exchanges where shares are traded; and currency information.

(5) This section expires July 1, 2031. [2019 c 426 § 6; 2013 2nd sp.s. c 13 § 702.]

Findings—Intent—2019 c 426 §§ 6 and 7: "(1) The legislature finds that a strong financial cluster is critical to the economic health of Washington state. The legislature further finds that anchor institutions are key to growing a strong financial cluster, including international investment management firms. Therefore, the legislature finds that maintaining a competitive tax policy in Washington state enables the state to maintain its anchor investment management firms.

(2) The legislature finds that standard financial information has not historically been subject to sales tax. In 2007 the legislature clarified that sales tax does not apply to electronically delivered standard financial information purchased by investment management companies or financial institutions. In 2013, the legislature provided clarification by passing a sales and use tax exemption for standard financial information purchased by investment management companies.

(3) The legislature further finds that taxation of such standard financial information would be uncompetitive and inconsistent with the fundamental structure of sales tax as a tax on retail transactions. Therefore, it is the legislature's intent to conform with a previously determined policy objective of exempting certain standard financial information purchased by investment management companies from sales and use tax in order to improve industry competitiveness." [2019 c 426 § 4.]

Tax preference performance statement—2019 c 426 §§ 6 and 7: "(1) This section is the tax preference performance statement for the tax preferences contained in sections 6 and 7, chapter 426, Laws of 2019. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness, as indicated in RCW 82.32.808(2)(b) and to reduce structural inefficiencies in the tax structure as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to maintain a viable financial cluster. It is the legislature's intent to exempt sales and use taxes on sales of standard financial information to qualifying international investment management companies, in order to maintain the presence of at least one international investment management services firm headquartered in Washington state with at least two hundred billion dollars of assets under management.

(4) If a review finds that there is at least one international investment management services firm with at least two hundred billion dollars of assets under management headquartered in Washington state, then the legislature intends to extend the expiration date of the tax preferences." [2019 c 426 § 5.]

Findings—Intent—2013 2nd sp.s. c 13: "(1) The legislature finds that in 2007, Engrossed Substitute House Bill No. 1981 was enacted into law, which provided a sales tax exemption for electronically delivered standard financial information if the sales were to an investment management company or financial institution. The legislature further finds that in 2009 and 2010, Engrossed Substitute House Bill No. 2075 and Substitute House Bill No. 2620 were passed, to address the taxation of electronically delivered products. The legislature further finds that this legislation imposed sales and use

tax on most digital services, goods, and prewritten software, but provided a broad business exemption for digital goods. The legislature further finds that the sales tax exemption for standard financial information from the 2007 legislation was eliminated because it was believed that the broader business exemption in Engrossed Substitute House Bill No. 2075 covered these transactions. The legislature further finds that the method of transmission of data by data providers to investment management companies has evolved over time where data providers add search tools to their web-based data, which makes it subject to sales tax.

(2) The legislature's intent under part VII of this act is to conform with a previously determined policy objective of exempting certain standard financial information purchased by international investment management companies from sales and use tax on the understanding that the fiscal impact is minimal. Therefore, it is the legislature's further intent to reevaluate the exemption in three years to ensure that actual fiscal impact on state revenues reasonably conforms with the fiscal estimate in the fiscal note for this legislation." [2013 2nd sp.s. c 13 § 701.]

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

RCW 82.08.215 Exemptions—Large private airplanes. (Expires July 1, 2031.)

(1) (a) The tax levied by RCW 82.08.020 does not apply to:

(i) Sales of large private airplanes to nonresidents of this state; and

(ii) Sales of or charges made for labor and services rendered in respect to repairing, cleaning, altering, or improving large private airplanes owned by nonresidents of this state.

(b) The exemption provided by this section applies only when the large private airplane is not required to be registered with the department of transportation, or its successor, under chapter 47.68 RCW. The airplane owner or lessee claiming an exemption under this section must provide the department, upon request, a copy of the written statement required under *RCW 47.68.250(5)(c)(ii) documenting the airplane's registration exemption and any additional information the department may require.

(2) Sellers making tax-exempt sales under this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed under this section.

(3) Upon request, the department of transportation must provide to the department of revenue information needed by the department of revenue to verify eligibility under this section.

(4) For purposes of this section "large private airplane" means an airplane not used in interstate commerce, not owned or leased by a government entity, weighing more than forty-one thousand pounds, and assigned a category A, B, C, or D test flow management system aircraft

weight class by the federal aviation administration's office of aviation policy and plans.

(5) This section expires July 1, 2031. [2020 c 304 § 1; 2013 2nd sp.s. c 13 § 1103.]

***Reviser's note:** RCW 47.68.250 was amended by 2021 c 131 § 2, changing subsection (5)(c)(ii) to subsection (6)(c)(ii).

Effective date—2013 2nd sp.s. c 13: "Part XI of this act takes effect January 1, 2014." [2013 2nd sp.s. c 13 § 1905.]

Intent—Findings—Tax preference review—2020 c 304 §§ 1-5; 2013 2nd sp.s. c 13 §§ 1101-1105: See note following RCW 47.68.250.

RCW 82.08.225 Taxes on lodging, car rentals, and restaurants—Deposit into statewide tourism marketing account. (1) Beginning July 1, 2018, 0.2 percent of taxes collected pursuant to RCW 82.08.020(1) on retail sales of lodging, car rentals, and restaurants must be deposited into the statewide tourism marketing account created in RCW 43.384.040. Except as provided otherwise for fiscal year 2019 in subsection (2) of this section, future revenue collections under this section may be up to three million dollars per biennium and must be deposited into the statewide tourism marketing account created in RCW 43.384.040. The deposit under this subsection to the statewide tourism marketing account may only occur if the legislature authorizes the deposit in the biennial omnibus appropriations act.

(2) For fiscal year 2019, up to a maximum of one million five hundred thousand dollars must be deposited in the statewide tourism marketing account created in RCW 43.384.040. The deposit under this subsection to the statewide tourism marketing account may only occur if the legislature authorizes the deposit in the biennial omnibus appropriations act. [2018 c 275 § 9.]

RCW 82.08.700 Exemptions—Vessels sold to nonresidents. (1) The tax levied by RCW 82.08.020 does not apply to sales to nonresident individuals of vessels thirty feet or longer if an individual purchasing a vessel purchases and displays a valid use permit.

(2)(a) An individual claiming exemption from retail sales tax under this section must display proof of his or her current nonresident status at the time of purchase.

(b) Acceptable proof of a nonresident individual's status includes one piece of identification such as a valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card that has a photograph of the holder and is issued by the out-of-state jurisdiction. Identification under this subsection (2)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(3) Nothing in this section requires the vessel dealer to make tax exempt retail sales to nonresidents. A dealer may choose to make sales to nonresidents, collect the sales tax, and remit the amount of sales tax collected to the state as otherwise provided by law. If the dealer chooses to make a sale to a nonresident without collecting the sales tax, the vendor must examine the proof of nonresidence, determine whether the proof is acceptable under subsection (2)(b) of

this section, and maintain records for each nontaxable sale that shows the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

(4) A vessel dealer shall issue a use permit to a buyer if the dealer is satisfied that the buyer is a nonresident. The use permit must be in a form and manner required by the department and must include an affidavit, signed by the purchaser, declaring that the vessel will be used in a manner consistent with this section. The fee for the issuance of a use permit is five hundred dollars for vessels fifty feet in length or less and eight hundred dollars for vessels greater than fifty feet in length. Funds collected under this section and RCW 82.12.700 must be reported on the dealer's excise tax return and remitted to the department in accordance with RCW 82.32.045. The department must transmit the fees to the state treasurer to be deposited in the state general fund. The use permit must be displayed on the vessel and is valid for twelve consecutive months from the date of issuance. A use permit is not renewable. A purchaser at the time of purchase must make an irrevocable election to take the exemption authorized in this section or the exemption in either RCW 82.08.0266 or 82.08.02665. A vessel dealer must maintain a copy of the use permit for the dealer's records. Vessel dealers must provide copies of use permits issued by the dealer under this section and RCW 82.12.700 to the department on a quarterly basis.

(5) A nonresident who claims an exemption under this section and who uses a vessel in this state after his or her use permit for that vessel has expired is liable for the tax imposed under RCW 82.08.020 on the original selling price of the vessel and must pay the tax directly to the department. Interest at the rate provided in RCW 82.32.050 applies to amounts due under this subsection, retroactively to the date the vessel was purchased, and accrues until the full amount of tax due is paid to the department.

(6) Any vessel dealer who makes sales without collecting the tax to a person who does not hold valid identification establishing out-of-state residency, and any dealer who fails to maintain records of sales to nonresidents as provided in this section, is personally liable for the amount of tax due.

(7) Chapter 82.32 RCW applies to the administration of the fee imposed in this section and RCW 82.12.700.

(8) A vessel dealer that issues use permits under this section and RCW 82.12.700 must file with the department all returns in an electronic format as provided or approved by the department. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(a) Any return required to be filed in an electronic format under this subsection is not filed until received by the department in an electronic format provided or approved by the department.

(b) The electronic filing requirement in this subsection ends when a vessel dealer no longer issues use permits, and the dealer has electronically filed all of its returns reporting the fees collected under this section and RCW 82.12.700.

(c) The department may waive the electronic filing requirement in this subsection for good cause shown. [2010 c 106 § 219; 2007 c 22 § 1.]

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

Effective date—2007 c 22: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 22 § 4.]

RCW 82.08.701 Exemptions—Grantee's receipt of salmon recovery grants. (1) The tax levied by RCW 82.08.020 does not apply to a grantee's receipt of amounts received as grants that are deductible under RCW 82.04.4339.

(2) Nothing in this section may be construed to:

(a) Imply that the tax levied by RCW 82.08.020 applies to any circumstance not described in subsection (1) of this section; or

(b) Provide an exemption from the tax levied by RCW 82.08.020 for the grantee's use of grant proceeds to acquire products in a transaction meeting the definition of "retail sale" in RCW 82.04.050.

(3) For purposes of this section, the following definitions apply:

(a) "Grantee" means the recipient of a grant deductible under RCW 82.04.4339.

(b) "Product" means the same as in RCW 82.32.023. [2021 c 143 § 3.]

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

RCW 82.08.798 Exemptions—Sales of feminine hygiene products.

(1) The tax levied by RCW 82.08.020 does not apply to the sales of feminine hygiene products.

(2) "Feminine hygiene products" means sanitary napkins, tampons, menstrual cups, or any other similar products sold at retail designed specifically to catch menstrual flow either internally or externally. [2020 c 350 § 3.]

Tax preference performance statement—2020 c 350 §§ 3 and 4: "(1) This section is the tax preference performance statement for the sales and use tax exemptions for feminine hygiene products provided in sections 3 and 4, chapter 350, Laws of 2020. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility to preferential tax treatment.

(2) The legislature categorizes these tax preferences as one[s] intended to provide tax relief for certain individuals as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to authorize a permanent sales and use tax exemption for feminine hygiene products to reduce the tax burden on females for a product that is fundamental to personal hygiene and health.

(4) The joint legislative audit and review committee is not required to include the tax preferences authorized in sections 3 and 4, chapter 350, Laws of 2020 as part of its normal review process of tax preferences. The tax preferences authorized in sections 3 and 4, chapter 350, Laws of 2020 will be included in the tax exemption report

required under RCW 43.06.400 published by the department of revenue."
[2020 c 350 § 2.]

Findings—Intent—2020 c 350: "The legislature finds that feminine hygiene products are a necessity for most females in the state. Taxing a necessary feminine hygiene product unjustly adds an additional tax burden on females that creates a tax gap between genders, requiring females to potentially pay more of their income to state taxes. The legislature further finds that taxing feminine hygiene products adds to the regressive tax burden on low-income families. The legislature further finds that feminine hygiene products are not a discretionary purchase, they are a necessity for which there is no alternative for females to maintain proper health and hygiene. Therefore, the legislature intends to provide a permanent sales and use tax exemption for feminine hygiene products." [2020 c 350 § 1.]

Exemption from automatic expiration date of new tax preference—2020 c 350: "The automatic expiration date provisions of RCW 82.32.805(1)(a) do not apply to this act." [2020 c 350 § 5.]

Effective date—2020 c 350: "This act takes effect July 1, 2020."
[2020 c 350 § 6.]

RCW 82.08.803 Exemptions—Nebulizers. (1) An exemption from the tax imposed by RCW 82.08.020 in the form of a refund is provided for sales of nebulizers, including repair, replacement, and component parts for such nebulizers, for human use pursuant to a prescription. In addition, the tax levied by RCW 82.08.020 shall not apply to charges made for labor and services rendered in respect to the repairing, cleaning, altering, or improving of nebulizers. "Nebulizer" means a device, not a building fixture, that converts a liquid medication into a mist so that it can be inhaled.

(2) Sellers shall collect tax on sales subject to this exemption. The buyer shall apply for a refund directly from the department in a form and manner prescribed by the department. [2007 c 6 § 1103; 2004 c 153 § 104.]

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

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

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

RCW 82.08.804 Exemptions—Ostomic items. The tax levied by RCW 82.08.020 shall not apply to sales of ostomic items used by colostomy, ileostomy, or urostomy patients. "Ostomic items" means disposable medical supplies used by colostomy, ileostomy, and urostomy patients, and includes bags, belts to hold up bags, tapes, tubes, adhesives, deodorants, soaps, jellies, creams, germicides, and other like supplies. "Ostomic items" does not include undergarments, pads and shields to protect undergarments, sponges, or rubber sheets. [2004 c 153 § 106.]

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

RCW 82.08.805 Exemptions—Personal property used at an aluminum smelter. (1) A person who has paid tax under RCW 82.08.020 for personal property used at an aluminum smelter, tangible personal property that will be incorporated as an ingredient or component of buildings or other structures at an aluminum smelter, or for labor and services rendered with respect to such buildings, structures, or personal property, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. A person claiming an exemption must pay the tax and may then take a credit equal to the state share of retail sales tax paid under RCW 82.08.020. The person must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) For the purposes of this section, "aluminum smelter" has the same meaning as provided in RCW 82.04.217.

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

(4) Credits may not be claimed under this section for taxable events occurring on or after January 1, 2027. [2017 c 135 § 21; 2015 3rd sp.s. c 6 § 504; 2011 c 174 § 303. Prior: 2010 1st sp.s. c 2 § 3; 2010 c 114 § 122; 2009 c 535 § 513; 2006 c 182 § 3; 2004 c 24 § 10.]

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

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

Findings—Tax preference performance statement—2015 3rd sp.s. c 6 §§ 502-506: See note following RCW 82.04.2909.

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

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

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

RCW 82.08.806 Exemptions—Sale of computer equipment parts and services to printer or publisher. (1) The tax levied by RCW 82.08.020 does not apply to sales, to a printer or publisher, of computer equipment, including repair parts and replacement parts for such equipment, when the computer equipment is used primarily in the printing or publishing of any printed material, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. This exemption is available only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection (3) apply throughout this section, unless the context clearly requires otherwise.

(a) "Computer" has the same meaning as in RCW 82.04.215.

(b) "Computer equipment" means a computer and the associated physical components that constitute a computer system, including monitors, keyboards, printers, modems, scanners, pointing devices, and other computer peripheral equipment, cables, servers, and routers. "Computer equipment" also includes digital cameras and computer software.

(c) "Computer software" has the same meaning as in RCW 82.04.215.

(d) "Primarily" means greater than fifty percent as measured by time.

(e) "Printer or publisher" means a person, as defined in RCW 82.04.030, who is subject to tax under RCW 82.04.260(14) or 82.04.280(1) (a).

(4) "Computer equipment" does not include computer equipment that is used primarily for administrative purposes including but not limited to payroll processing, accounting, customer service, telemarketing, and collection. If computer equipment is used simultaneously for administrative and nonadministrative purposes, the administrative use must be disregarded during the period of simultaneous use for purposes of determining whether the computer equipment is used primarily for administrative purposes. [2020 c 139 § 16; 2011 c 174 § 204; 2010 1st sp.s. c 23 § 516; 2009 c 461 § 5; 2004 c 8 § 2.]

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

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

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

Findings—Intent—2004 c 8: "(1) The legislature finds that the manufacturer's machinery and equipment sales and use tax exemption is vital to the continued development of economic opportunity in this state, including the development of new businesses and the expansion or modernization of existing businesses.

(2) The legislature finds that the printing and publishing industries have not been able to realize the benefits of the manufacturer's machinery and equipment sales and use tax exemption to the same extent as other manufacturing industries due to dramatic changes in business methods caused by computer technology not contemplated when the manufacturer's machinery and equipment sales and use tax exemption was adopted. As a result of these changes in business methods, a substantial amount of computer equipment used by printers and publishers is not eligible for the manufacturer's

machinery and equipment sales and use tax exemption because the computer equipment is not used within the manufacturing site.

(3) The legislature further finds that additional incentives for printers and publishers need to be adopted to provide these industries with similar benefits as the manufacturer's machinery and equipment sales and use tax exemption provides for other manufacturing industries, and in recognition of the rapid rate of technological advancement in business methods undergone by the printing and publishing industries. The legislature intends to accomplish this by providing a sales and use tax exemption to printers and publishers for computer equipment, not otherwise eligible for the manufacturer's machinery and equipment sales and use tax exemption, used primarily in the printing or publishing of printed material, and for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving such computer equipment." [2004 c 8 § 1.]

RCW 82.08.807 Exemptions—Direct mail delivery charges. The tax levied by RCW 82.08.020 does not apply to delivery charges made for the delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser. [2005 c 514 § 115.]

Effective date—2005 c 514: See note following RCW 82.04.4272.

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

RCW 82.08.808 Exemptions—Sales of medical supplies, chemicals, or materials to comprehensive cancer centers. (1) The tax levied by RCW 82.08.020 does not apply to the sale of medical supplies, chemicals, or materials to a comprehensive cancer center. The exemption in this section does not apply to the sale of construction materials, office equipment, building equipment, administrative supplies, or vehicles.

(2) For the purposes of this section, the following definitions apply:

(a) "Comprehensive cancer center" has the meaning provided in RCW 82.04.4265.

(b) "Chemical" means any catalyst, solvent, water, acid, oil, or other additive that physically or chemically interacts with blood, bone, or tissue.

(c) "Materials" means any item of tangible personal property, including, but not limited to, bags, packs, collecting sets, filtering materials, testing reagents, antisera, and refrigerants used or consumed in performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(d) "Research" means basic and applied research that has as its objective the design, development, refinement, testing, marketing, or commercialization of a product, service, or process.

(e) "Medical supplies" means any item of tangible personal property, including any repair and replacement parts for such tangible personal property, used by a comprehensive cancer center for the purpose of performing research on, procuring, testing, processing,

storing, packaging, distributing, or using blood, bone, or tissue. The term includes tangible personal property used to:

- (i) Provide preparatory treatment of blood, bone, or tissue;
- (ii) Control, guide, measure, tune, verify, align, regulate, test, or physically support blood, bone, or tissue; and
- (iii) Protect the health and safety of employees or others present during research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue. [2005 c 514 § 402.]

Effective date—2005 c 514 §§ 401-403: See note following RCW 82.04.4265.

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

RCW 82.08.809 Exemptions—Vehicles using clean alternative fuels and electric vehicles, exceptions—Quarterly transfers. (1)(a) Except as provided in subsection (4) of this section, the tax levied by RCW 82.08.020 does not apply to sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which (i) are exclusively powered by a clean alternative fuel or (ii) use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power.

(b) Beginning with sales made or lease agreements signed on or after July 1, 2016, the exemption in this section is only applicable for up to thirty-two thousand dollars of a vehicle's selling price or the total lease payments made plus the selling price of the leased vehicle if the original lessee purchases the leased vehicle before the expiration of the exemption as described in subsection (6) of this section.

(2) The seller must keep records necessary for the department to verify eligibility under this section.

(3) As used in this section, "clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington state department of ecology.

(4)(a) A sale, other than a lease, of a vehicle identified in subsection (1)(a) of this section made on or after July 15, 2015, and before July 1, 2016, is not exempt from sales tax as described under subsection (1) of this section if the selling price of the vehicle plus trade-in property of like kind exceeds thirty-five thousand dollars.

(b) A sale, other than a lease, of a vehicle identified in subsection (1)(a) of this section made on or after July 1, 2016, and before the expiration of the exemption as described in subsection (6) of this section, is not exempt from sales tax as described under subsection (1)(b) of this section if, at the time of sale, the lowest manufacturer's suggested retail price, as determined in rule by the department of licensing pursuant to chapter 34.05 RCW, for the base model is more than forty-two thousand five hundred dollars.

(c) For leased vehicles for which the lease agreement was signed before July 1, 2015, lease payments are exempt from sales tax as described under subsection (1)(a) of this section regardless of the vehicle's fair market value at the inception of the lease.

(d) For leased vehicles identified in subsection (1)(a) of this section for which the lease agreement is signed on or after July 15, 2015, and before July 1, 2016, lease payments are not exempt from sales tax if the fair market value of the vehicle being leased exceeds thirty-five thousand dollars at the inception of the lease. For the purposes of this subsection (4), "fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(e) For leased vehicles identified in subsection (1)(a) of this section for which the lease agreement is signed on or after July 1, 2016, and before the expiration of the exemption as described in subsection (6) of this section, lease payments are not exempt from sales tax as described under subsection (1)(b) of this section if, at the inception of the lease, the lowest manufacturer's suggested retail price, as determined in rule by the department of licensing pursuant to chapter 34.05 RCW, for the base model is more than forty-two thousand five hundred dollars.

(f) The department of licensing must maintain and publish a list of all vehicle models qualifying for the sales tax exemption under this section until the expiration of the exemption as described in subsection (6) of this section.

(5) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns. For purposes of this section, the first transfer for the calendar quarter after July 15, 2015, must be calculated assuming only those revenues that should have been deposited into the general fund beginning July 1, 2015.

(6)(a) The exemption under this section expires, effective with sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed, after the last day of the calendar month immediately following the month the department receives notice from the department of licensing under subsection (7)(b) of this section. All leased vehicles that qualified for the exemption before the expiration of the exemption must continue to receive the exemption as described under subsection (1)(b) of this section on lease payments due through the remainder of the lease.

(b) Upon receiving notice from the department of licensing under subsection (7)(b) of this section, the department must provide notice as soon as is practicable on its website of the expiration date of the exemption under this section.

(c) For purposes of this subsection, even if the department of licensing provides the department with notice under subsection (7)(b) of this section before the end of the fifth working day of the month notice is required, the notice is deemed to have been received by the department at the end of the fifth working day of the month notice is required.

(d) If, by the end of the fifth working day of May 2019, the department has not received notice from the department of licensing under subsection (7)(b) of this section, the exemption under this section expires effective with sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed after June 30, 2019.

(e) Nothing in this subsection (6) may be construed to affect the validity of any exemption properly allowed by a seller under this section before the expiration of the exemption as described in (a) of this subsection and reported to the department on returns filed after the expiration of the exemption.

(f) Nothing in this subsection (6) may be construed to allow an exemption under this section for the purchase of a qualifying vehicle by the original lessee of the vehicle after the expiration of the exemption as provided in (a) of this subsection.

(7)(a) By the end of the fifth working day of each month, until the expiration of the exemption as described in subsection (6) of this section, the department of licensing must determine the cumulative number of qualifying vehicles titled on or after July 15, 2015, and provide notice of the cumulative number of these vehicles to the department.

(b) The department of licensing must notify the department once the cumulative number of qualifying vehicles titled in the state on or after July 15, 2015, equals or exceeds seven thousand five hundred.

(8) By the last day of July 2016, and every six months thereafter until the expiration of the exemption as described in subsection (6) of this section, based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of qualifying vehicles titled in the state on or after July 15, 2015, as reported to it by the department of licensing; and the dollar amount of all state retail sales and use taxes exempted on or after July 15, 2015, under this section and RCW 82.12.809.

(9) For purposes of this section, "qualifying vehicle" means a vehicle qualifying for the exemption under this section or RCW 82.12.809 in which the sale was made or the lease agreement was signed on or after July 15, 2015. [2016 sp.s. c 32 § 2; 2015 3rd sp.s. c 44 § 408; 2010 1st sp.s. c 11 § 2; 2005 c 296 § 1.]

Effective date—2016 sp.s. c 32: "This act takes effect July 1, 2016." [2016 sp.s. c 32 § 4.]

Tax preference performance statement—2016 sp.s. c 32: "This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature's intent to extend the existing sales and use tax exemption on certain clean alternative fuel vehicles in order to

reduce the price charged to customers for clean alternative fuel vehicles.

(3) To measure the effectiveness of the tax preferences in sections 2 and 3 of this act in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles titled in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary." [2016 sp.s. c 32 § 1.]

Tax preference performance statement—2015 3rd sp.s. c 44 §§ 408 and 409: "This section is the tax preference performance statement for the tax preferences contained in sections 408 and 409 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature's intent to extend the existing sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles.

(3) To measure the effectiveness of the tax preferences in sections 408 and 409 of this act in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles registered in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary." [2015 3rd sp.s. c 44 § 407.]

Effective date—2005 c 296: "This act takes effect January 1, 2009." [2005 c 296 § 5.]

RCW 82.08.810 Exemptions—Air pollution control facilities at a thermal electric generation facility—Exceptions—Exemption certificate—Payments on cessation of operation. (1) For the purposes of this section, "air pollution control facilities" mean any treatment works, control devices and disposal systems, machinery, equipment, structures, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to

meet regulatory requirements applicable to their construction, installation, or operation.

(2) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of tangible personal property to a light and power business, as defined in RCW 82.16.010, for construction or installation of air pollution control facilities at a thermal electric generation facility; or

(b) Sales of, cost of, or charges made for labor and services performed in respect to the construction or installation of air pollution control facilities.

(3) The exemption provided under this section applies only to sales, costs, or charges:

(a) Incurred for air pollution control facilities constructed or installed after May 15, 1997, and used in a thermal electric generation facility placed in operation after December 31, 1969, and before July 1, 1975;

(b) If the air pollution control facilities are constructed or installed to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70A.15 RCW; and

(c) For which the purchaser provides the seller with an exemption certificate, signed by the purchaser or purchaser's agent, that includes a description of items or services for which payment is made, the amount of the payment, and such additional information as the department reasonably may require.

(4) This section does not apply to sales of tangible personal property purchased or to sales of, costs of, or charges made for labor and services used for maintenance or repairs of pollution control equipment.

(5) If production of electricity at a thermal electric generation facility for any calendar year after 2002 and before 2023 falls below a twenty percent annual capacity factor for the generation facility, all or a portion of the tax previously exempted under this section in respect to construction or installation of air pollution control facilities at the generation facility shall be due as follows:

Year event occurs	Portion of previously exempted tax due
2003	100%
2004	95%
2005	90%
2006	85%
2007	80%
2008	75%
2009	70%
2010	65%
2011	60%
2012	55%
2013	50%
2014	45%
2015	40%
2016	35%
2017	30%
2018	25%
2019	20%
2020	15%
2021	10%
2022	5%
2023	0%

(6) *RCW 82.32.393 applies to this section. [2020 c 20 § 1473; 1997 c 368 § 2.]

***Reviser's note:** RCW 82.32.393 expired December 31, 2015.

Findings—Intent—1997 c 368: "(1) The legislature finds that:

(a) Thermal electric generation facilities play an important role in providing jobs for residents of the communities where such plants are located; and

(b) Taxes paid by thermal electric generation facilities help to support schools and local and state government operations.

(2) It is the intent of the legislature to assist thermal electric generation facilities placed in operation after December 31, 1969, and before July 1, 1975, to update their air pollution control equipment and abate pollution by extending certain tax exemptions and credits so that such plants may continue to play a long-term vital economic role in the communities where they are located." [1997 c 368 § 1.]

Rules adoption—1997 c 368: "The department of revenue and the department of ecology may adopt rules to implement this act." [1997 c 368 § 15.]

Severability—1997 c 368: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 368 § 16.]

Effective date—1997 c 368: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 15, 1997]." [1997 c 368 § 17.]

RCW 82.08.811 Exemptions—Coal used at coal-fired thermal electric generation facility—Application—Demonstration of progress in air pollution control—Notice of emissions violations—Reapplication—Payments on cessation of operation. (1) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

(2) Beginning January 1, 1999, the tax levied by RCW 82.08.020 does not apply to sales of coal used to generate electric power at a generation facility operated by a business if the following conditions are met:

(a) The owners must make an application to the department of revenue for a tax exemption;

(b) The owners must make a demonstration to the department of ecology that the owners have made reasonable initial progress to install air pollution control facilities to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70A.15 RCW;

(c) Continued progress must be made on the development of air pollution control facilities to meet the requirements of the permit; and

(d) The generation facility must emit no more than ten thousand tons of sulfur dioxide during a previous consecutive twelve-month period.

(3) During a consecutive twelve-month period, if the generation facility is found to be in violation of excessive sulfur dioxide emissions from a regional air pollution control authority or the department of ecology, the department of ecology shall notify the department of revenue and the owners of the generation facility shall lose their tax exemption under this section. The owners of a generation facility may reapply for the tax exemption when they have once again met the conditions of subsection (2)(d) of this section.

(4) *RCW 82.32.393 applies to this section. [2020 c 20 § 1474; 1997 c 368 § 4.]

***Reviser's note:** RCW 82.32.393 expired December 31, 2015.

Findings—Intent—Rules adoption—Severability—Effective date—
1997 c 368: See notes following RCW 82.08.810.

RCW 82.08.816 Exemptions—Electric vehicle batteries and fuel cells—Labor and services—Infrastructure. (Expires July 1, 2025.) (1)
The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of batteries or fuel cells for electric vehicles, including batteries or fuel cells sold as a component of an electric bus at the time of the vehicle's sale;

(b) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries or fuel cells;

(c) The sale of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure, including hydrogen fueling stations;

(d) The sale of tangible personal property that will become a component of battery or fuel cell electric vehicle infrastructure during the course of installing, constructing, repairing, or improving battery or fuel cell electric vehicle infrastructure; and

(e) The sale of zero emissions buses.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support a battery or fuel cell electric vehicle, including battery charging stations, rapid charging stations, battery exchange stations, fueling stations that provide hydrogen for fuel cell electric vehicles, green electrolytic hydrogen production facilities, and renewable hydrogen production facilities.

(d) "Green electrolytic hydrogen" means hydrogen produced through electrolysis, and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(e) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(f) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for hydrogen and the source for the energy input into the production process.

(g) "Renewable resource" means (i) water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(h) "Zero emissions bus" means a bus that emits no exhaust gas from the onboard source of power, other than water vapor.

(4) This section expires July 1, 2025. [2022 c 292 § 401; 2022 c 182 § 309; 2019 c 287 § 11; 2009 c 459 § 4.]

Reviser's note: This section was amended by 2022 c 182 § 309 and by 2022 c 292 § 401, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—2022 c 292: See note following RCW 43.330.565.

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Tax preference performance statement—2019 c 287 §§ 8-14: See note following RCW 82.04.4496.

Findings—Intent—2019 c 287: See note following RCW 28B.30.903.

Finding—Purpose—2009 c 459: See note following RCW 47.80.090.

Regional transportation planning organizations—Electric vehicle infrastructure: RCW 47.80.090.

RCW 82.08.820 Exemptions—Remittance—Warehouse and grain elevators and distribution centers—Material-handling and racking equipment—Construction of warehouse or elevator—Information sheet—Rules—Records—Exceptions. (1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

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

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

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

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

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

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

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

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include:

(i) Agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product;

(ii) Logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk; or

(iii) Cannabis, useable cannabis, or cannabis-infused products;

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

(g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible

personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

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

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

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

(k) "Third-party warehouse" means a person taxable under RCW 82.04.280(1)(d);

(l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

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

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

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer must on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking

equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

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

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

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments. [2022 c 16 § 153; 2014 c 140 § 23; 2011 c 174 § 206; (2011 c 174 § 205 expired July 1, 2012); 2006 c 354 § 12; (2006 c 354 § 11 expired July 1, 2012); 2005 c 513 § 11; 1997 c 450 § 2.]

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

Effective date—2011 c 174 § 206: "Section 206 of this act takes effect July 1, 2012." [2011 c 174 § 501.]

Expiration date—2011 c 174 § 205: "Section 205 of this act expires July 1, 2012." [2011 c 174 § 502.]

Expiration date—2006 c 354 § 11: "Section 11 of this act expires July 1, 2012." [2006 c 354 § 20.]

Effective dates—2006 c 354: See note following RCW 82.04.4268.

Effective dates—2005 c 513: See note following RCW 82.04.4266.

Findings—Intent—1997 c 450: "The legislature finds that the state's overall economic health and prosperity is bolstered through tax incentives targeted to specific industries. The warehouse and distribution industry is critical to other businesses. The transportation sector, the retail sector, the ports, and the wholesalers all rely on the warehouse and distribution industry. It is the intent of the legislature to stimulate interstate trade by providing tax incentives to those persons in the warehouse and distribution industry engaged in highly competitive trade." [1997 c 450 § 1.]

Report—1997 c 450: "The legislative fiscal committees shall report to the legislature by December 1, 2001, on the economic impacts of this act. This report shall analyze employment and other relevant economic data pertaining to the tax exemptions authorized under this act and shall measure the effect on the creation or retention of family-wage jobs and diversification of the state's economy. The report must include the committee's findings on the tax incentive program's performance in achieving its goals and recommendations on

ways to improve its effectiveness. Analytic techniques may include, but not be limited to, comparisons of Washington to other states that did not enact business tax changes, comparisons across Washington counties based on usage of the tax exemptions, and comparisons across similar firms based on their use of the tax exemptions. In performing the analysis, the legislative fiscal committees shall consult with business and labor interests. The department of revenue, the employment security department, and other agencies shall provide to the legislative fiscal committees such data as the legislative fiscal committees may request in performing the analysis required under this section." [1997 c 450 § 6.]

Effective date—1997 c 450: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 20, 1997]." [1997 c 450 § 7.]

RCW 82.08.830 Exemptions—Sales at camp or conference center by nonprofit organization. The tax levied by RCW 82.08.020 shall not apply to a sale made at a camp or conference center if the gross income from the sale is exempt under RCW 82.04.363. [1997 c 388 § 2.]

Effective date—1997 c 388: See note following RCW 82.04.363.

RCW 82.08.832 Exemptions—Sales of gun safes. (1) The tax levied by RCW 82.08.020 does not apply to sales of gun safes.

(2) As used in this section and RCW 82.12.832, "gun safe" means an enclosure specifically designed or modified for the purpose of storing a firearm and equipped with a padlock, key lock, combination lock, or similar locking device which, when locked, prevents the unauthorized use of the firearm. [1998 c 178 § 1.]

Effective date—1998 c 178: "This act takes effect July 1, 1998." [1998 c 178 § 3.]

RCW 82.08.833 Exemptions—Sales or transfers of firearms—Unlicensed persons—Background check requirements. The tax imposed by RCW 82.08.020 does not apply to the sale or transfer of any firearms between two unlicensed persons if the unlicensed persons have complied with all background check requirements of chapter 9.41 RCW. [2015 c 1 § 10 (Initiative Measure No. 594, approved November 4, 2014).]

Finding—2015 c 1 (Initiative Measure No. 594): See note following RCW 9.41.010.

RCW 82.08.834 Exemptions—Sales/leasebacks by regional transit authorities. The tax levied by RCW 82.08.020 does not apply to lease amounts paid by a seller/lessee to a lessor under a sale/leaseback agreement under RCW 81.112.300 in respect to tangible personal property, used by the seller/lessee, or to the purchase amount paid by the lessee pursuant to an option to purchase at the end of the lease term, but only if the seller/lessee previously paid any tax otherwise

due under this chapter or chapter 82.12 RCW at the time of acquisition of the tangible personal property. [2000 2nd sp.s. c 4 § 21.]

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

RCW 82.08.850 Exemptions—Conifer seed. (1) The tax levied by RCW 82.08.020 does not apply to the sale of conifer seed that is immediately placed into freezer storage operated by the seller and is: (a) Used for growing timber outside Washington; or (b) sold to an Indian tribe or member and is to be used for growing timber in Indian country. This section applies only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files. For the purposes of this section, "Indian country" has the meaning given in RCW 82.24.010.

(2) If a buyer of conifer seed is normally engaged in growing timber both within and outside Washington and is not able to determine at the time of purchase whether the seed acquired, or the seedlings germinated from the seed acquired, will be used for growing timber within or outside Washington, the buyer may defer payment of the sales tax until it is determined that the seed, or seedlings germinated from the seed, will be planted for growing timber in Washington. A buyer that does not pay sales tax on the purchase of conifer seed and subsequently determines that the sale did not qualify for the tax exemption must remit to the department the amount of sales tax that would have been paid at the time of purchase.

(3) A buyer who pays retail sales tax on the purchase of conifer seed and subsequently determines that the sale qualifies for the tax exemption provided in this section is entitled to a deduction on the buyer's tax return equal to the cost to the buyer of the purchased seed. The deduction is allowed only if the buyer keeps and preserves records that show from whom the seed was purchased, the date of the purchase, the amount of the purchase, and the tax that was paid. [2001 c 129 § 2.]

Finding—Intent—2001 c 129: "The legislature finds that in-state sellers of conifer seed and persons growing customer-owned conifer seed into seedlings are placed at a marketplace disadvantage compared to persons doing the same activity out of state because of the unique storage and growing requirements of conifer seed. It is the intent of the legislature to eliminate this disadvantage by providing a limited sales tax exemption for the sale of conifer seed to be used to grow timber outside Washington, or sold to an Indian tribe or member to grow timber in Indian country, if upon sale the seed is immediately placed into freezer storage operated by the seller." [2001 c 129 § 1.]

Retroactive application—2001 c 129: "This act applies retroactively." [2001 c 129 § 4.]

RCW 82.08.855 Exemptions—Replacement parts for qualifying farm machinery and equipment. (1) The tax levied by RCW 82.08.020 does not apply to the sale to an eligible farmer of:

(a) Replacement parts for qualifying farm machinery and equipment;

(b) Labor and services rendered in respect to the installing of replacement parts; and

(c) Labor and services rendered in respect to the repairing of qualifying farm machinery and equipment, provided that during the course of repairing no tangible personal property is installed, incorporated, or placed in, or becomes an ingredient or component of, the qualifying farm machinery and equipment other than replacement parts.

(2) (a) Notwithstanding anything to the contrary in this chapter, if a single transaction involves services that are not exempt under this section and services that would be exempt under this section if provided separately, the exemptions provided in subsection (1) (b) and (c) of this section apply if: (i) The seller makes a separately itemized charge for labor and services described in subsection (1) (b) or (c) of this section; and (ii) the separately itemized charge does not exceed the seller's usual and customary charge for such services.

(b) If the requirements in (a) (i) and (ii) of this subsection (2) are met, the exemption provided in subsection (1) (b) or (c) of this section applies to the separately itemized charge for labor and services described in subsection (1) (b) or (c) of this section.

(3) (a) A purchaser claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. Sellers making tax-exempt sales under this section must obtain an exemption certificate from the purchaser in a form and manner prescribed by the department. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. The seller must retain a copy of the certificate or the data elements for the seller's files.

(b) (i) For a person who is an eligible farmer as defined in subsection (4) (b) (iv) of this section, the exemption is conditioned upon:

(A) The eligible farmer having gross sales or a harvested value of agricultural products grown, raised, or produced by that person or gross sales of bee pollination services of at least ten thousand dollars in the first full tax year in which the person engages in business as a farmer; or

(B) The eligible farmer, during the first full tax year in which that person engages in business as a farmer, growing, raising, or producing agricultural products or bee pollination services having an estimated value at any time during that year of at least ten thousand dollars, if the person will not sell or harvest an agricultural product or bee pollination service during the first full tax year in which the person engages in business as a farmer.

(ii) If a person fails to meet the condition provided in (b) (i) (A) or (B) of this subsection, the person must repay any taxes exempted under this section. Any taxes for which an exemption under this section was claimed are due and payable to the department within thirty days of the end of the first full tax year in which the person engages in business as a farmer. The department must assess interest on the taxes for which the exemption was claimed as provided in chapter 82.32 RCW, retroactively to the date the exemption was claimed, and accrues until the taxes for which the exemption was claimed are paid. Penalties may not be imposed on any tax required to

be paid under this subsection (3) (b) (ii) if full payment is received by the due date.

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

(a) "Agricultural products" has the meaning provided in RCW 82.04.213.

(b) "Eligible farmer" means:

(i) A farmer as defined in RCW 82.04.213 whose gross sales or harvested value of agricultural products grown, raised, or produced by that person or gross sales of bee pollination services was at least ten thousand dollars for the immediately preceding tax year;

(ii) A farmer as defined in RCW 82.04.213 whose agricultural products had an estimated value of at least ten thousand dollars for the immediately preceding tax year, if the person did not sell or harvest an agricultural product or bee pollination service during that year;

(iii) A farmer as defined in RCW 82.04.213 who has merely changed identity or the form of ownership of an entity that was an eligible farmer, where there was no change in beneficial ownership, and the combined gross sales, harvested value, or estimated value of agricultural products or bee pollination services by both entities met the requirements of (b) (i) or (ii) of this subsection for the immediately preceding tax year;

(iv) A farmer as defined in RCW 82.04.213 who does not meet the definition of "eligible farmer" in (b) (i), (ii), or (iii) of this subsection, and who did not engage in farming for the entire immediately preceding tax year, because the farmer is either new to farming or newly returned to farming; or

(v) Anyone who otherwise meets the definition of "eligible farmer" in this subsection except that they are not a "person" as defined in RCW 82.04.030.

(c) "Farm vehicle" has the same meaning as in RCW 46.04.181.

(d) "Harvested value" means the number of units of the agricultural product that were grown, raised, or produced, multiplied by the average sales price of the agricultural product. For purposes of this subsection (4) (d), "average sales price" means the average price per unit of agricultural product received by farmers in this state as reported by the United States department of agriculture's national agricultural statistics service for the twelve-month period that coincides with, or that ends closest to, the end of the relevant tax year, regardless of whether the prices are subject to revision. If the price per unit of an agricultural product received by farmers in this state is not available from the national agricultural statistics service, average sales price may be determined by using the average price per unit of agricultural product received by farmers in this state as reported by a recognized authority for the agricultural product.

(e) "Qualifying farm machinery and equipment" means machinery and equipment used primarily by an eligible farmer for growing, raising, or producing agricultural products, providing bee pollination services, or both. "Qualifying farm machinery and equipment" does not include:

(i) Vehicles as defined in RCW 46.04.670, other than farm tractors as defined in RCW 46.04.180, farm vehicles, and other farm implements. For purposes of this subsection (4) (e) (i), "farm implement" means machinery or equipment manufactured, designed, or reconstructed for agricultural purposes and used primarily by an

eligible farmer to grow, raise, or produce agricultural products, but does not include lawn tractors and all-terrain vehicles;

(ii) Aircraft;

(iii) Hand tools and hand-powered tools; and

(iv) Property with a useful life of less than one year.

(f) (i) "Replacement parts" means those parts that replace an existing part, or which are essential to maintain the working condition, of a piece of qualifying farm machinery or equipment.

(ii) Paint, fuel, oil, hydraulic fluids, antifreeze, and similar items are not replacement parts except when installed, incorporated, or placed in qualifying farm machinery and equipment during the course of installing replacement parts as defined in (f) (i) of this subsection or making repairs as described in subsection (1) (c) of this section.

(g) "Tax year" means the period for which a person files its federal income tax return, irrespective of whether the period represents a calendar year, fiscal year, or some other consecutive twelve-month period. If a person is not required to file a federal income tax return, "tax year" means a calendar year. [2015 3rd sp.s. c 6 § 1106; 2014 c 97 § 601; 2007 c 332 § 1; 2006 c 172 § 1.]

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

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

Effective date—2006 c 172: "This act takes effect July 1, 2006." [2006 c 172 § 3.]

RCW 82.08.865 Exemptions—Diesel, biodiesel, and aircraft fuel for farm fuel users. (1) The tax levied by RCW 82.08.020 does not apply to sales of diesel fuel, biodiesel fuel, or aircraft fuel, to a farm fuel user for agricultural purposes. This exemption applies to a fuel blend if all of the component fuels of the blend would otherwise be exempt under this subsection if the component fuels were sold as separate products. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department.

(2) The definitions in RCW 82.04.213 and this subsection apply to this section.

(a) (i) "Agricultural purposes" means the performance of activities directly related to the growing, raising, or producing of agricultural products.

(ii) "Agricultural purposes" does not include: (A) Heating space for human habitation or water for human consumption; or (B) transporting on public roads individuals, agricultural products, farm machinery or equipment, or other tangible personal property, except when the transportation is incidental to transportation on private property and the fuel used for such transportation is not subject to tax under chapter 82.38 RCW.

(b) "Aircraft fuel" is defined as provided in RCW 82.42.010.

(c) "Biodiesel fuel" is defined as provided in RCW 19.112.010.

(d) "Diesel fuel" is defined as provided in 26 U.S.C. 4083, as amended or renumbered as of January 1, 2006.

(e) "Farm fuel user" means: (i) A farmer; or (ii) a person who provides horticultural services for farmers, such as soil preparation services, crop cultivation services, and crop harvesting services. [2010 c 106 § 218; 2007 c 443 § 1; 2006 c 7 § 1.]

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

Effective date—2007 c 443: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2007]." [2007 c 443 § 3.]

Effective date—2006 c 7: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 6, 2006]." [2006 c 7 § 3.]

Additional sales tax exemption for motor vehicle and special fuel: RCW 82.08.0255.

RCW 82.08.870 Exemptions—Motorcycles for training programs.

The tax levied by RCW 82.08.020 does not apply to sales of motorcycles purchased for use in a motorcycle operator training and education program created under RCW 46.20.520. [2001 c 285 § 2.]

RCW 82.08.875 Exemptions—Automotive adaptive equipment.

(Expires July 1, 2028.) (1) The tax imposed by RCW 82.08.020 does not apply to sales to eligible purchasers of prescribed add-on automotive adaptive equipment, including charges incurred for labor and services rendered in respect to the installation and repairing of such equipment. The exemption provided in this section only applies if the eligible purchaser is reimbursed in whole or part for the purchase by the United States department of veterans affairs or other federal agency, and the reimbursement is paid directly by that federal agency to the seller.

(2) Sellers making tax-exempt sales under this section must:

(a) Obtain an exemption certificate from the eligible purchaser in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement;

(b) File their tax return with the department electronically; and

(c) Report their total gross sales on their return and deduct the exempt sales under subsection (1) of this section from their reported gross sales.

(3) For purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Add-on automotive adaptive equipment" means equipment installed in, and modifications made to, a motor vehicle that are necessary to assist physically challenged persons to enter, exit, or safely operate a motor vehicle. The term includes but is not limited

to wheelchair lifts, wheelchair restraints, ramps, under vehicle lifts, power door openers, power seats, lowered floors, raised roofs, raised doors, hand controls, left foot gas pedals, chest and shoulder harnesses, parking brake extensions, dual battery systems, steering devices, reduced and zero effort steering and braking, voice-activated controls, and digital driving systems. The term does not include motor vehicles and equipment installed in a motor vehicle by the manufacturer of the motor vehicle.

(b) "Eligible purchaser" means a veteran, or member of the armed forces serving on active duty, who is disabled, regardless of whether the disability is service connected as that term is defined by federal statute 38 U.S.C. Sec. 101, as amended, as of January 1, 2018.

(c) "Prescribed add-on automotive adaptive equipment" means add-on automotive adaptive equipment prescribed by a physician.

(4) This section expires July 1, 2028. [2018 c 130 § 3; 2013 c 211 § 2.]

Findings—Intent—2018 c 130: "(1) The legislature finds that it is important to recognize the service of active duty military and veterans and to acknowledge the continued sacrifice of those veterans who have been catastrophically injured. The legislature further finds that:

(a) Many disabled veterans often need customized, accessible transportation to be self-sufficient and to maintain a high quality of life;

(b) Individuals with a severe disability are twice as likely to be at or below the national poverty level;

(c) The federal government pays for the cost of add-on automotive adaptive equipment for severely injured veterans; however, it does not cover the cost of sales or use tax owed on this equipment and that this cost is then shifted onto the veterans, who often times cannot afford the tax due to the substantial amount of adaptive equipment required in such customized vehicles; and

(d) This added financial burden has the unintended effect of causing some veterans to acquire their adaptive equipment in neighboring states that do not impose a sales tax, thereby negatively impacting Washington businesses providing mobility enhancing equipment and services to Washington veterans.

(2) It is the legislature's intent to provide specific financial relief for severely injured veterans and to ameliorate a negative consequence of Washington's tax structure by providing a sales and use tax exemption for adaptive equipment required to customize vehicles for disabled veterans." [2018 c 130 § 1.]

Tax preference performance statement—2018 c 130: "(1) This section is the tax preference performance statement for the tax preferences contained in chapter 130, Laws of 2018. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes the tax preferences in chapter 130, Laws of 2018 as ones intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) To measure the effectiveness of chapter 130, Laws of 2018 in achieving the specific public policy objective described in section 1,

chapter 130, Laws of 2018, the joint legislative audit and review committee must, at minimum, review the following:

(a) The dollar amount of qualifying add-on automotive adaptive equipment purchases, as reported to the department of revenue; and

(b) The number of approved applications for add-on automotive adaptive equipment, as reported by the United States department of veterans affairs.

(4) In addition to the data sources described under this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under this section.

(5) The joint legislative audit and review committee must review the tax preferences provided in chapter 130, Laws of 2018 as part of its normal review process of tax preferences." [2018 c 130 § 2.]

Findings—Intent—2013 c 211: "(1) The legislature finds that it is important to recognize the service of active duty military and veterans and to acknowledge the continued sacrifice of those veterans who have been catastrophically injured. The legislature further finds that many disabled veterans often need customized, accessible transportation to be self-sufficient and to maintain a high quality of life. The legislature further finds that individuals with a severe disability are three times more likely to be at or below the national poverty level. The legislature further finds that the federal government pays for the cost of mobility adaptive equipment for severely injured veterans; however, it does not cover the cost of sales or use tax owed on this equipment. The legislature further finds that this cost is then shifted onto the veterans, who oftentimes cannot afford the tax due to the substantial amount of adaptive equipment required in such customized vehicles. The legislature further finds that this added financial burden has the unintended effect of causing some veterans to acquire their mobility adaptive equipment in neighboring states that do not impose a sales tax, thereby negatively impacting Washington businesses providing mobility enhancing equipment and services to Washington veterans.

(2) It is the legislature's intent to provide specific financial relief for severely injured veterans and to ameliorate a negative consequence of Washington's tax structure by providing a sales and use tax exemption for mobility adaptive equipment required to customize vehicles for disabled veterans. It is the further intent of the legislature to reexamine this exemption in five years to determine whether it has mitigated the competitive disadvantage stemming from Washington's tax structure on mobility businesses and to assess whether the cost of the exemption in terms of forgone state revenue is beyond what was reasonably assumed in the fiscal estimate for the legislation." [2013 c 211 § 1.]

Effective date—2013 c 211: "This act takes effect August 1, 2013." [2013 c 211 § 4.]

RCW 82.08.880 Exemptions—Animal pharmaceuticals. (1) The tax levied by RCW 82.08.020 does not apply to sales to farmers or to veterinarians of animal pharmaceuticals approved by the United States department of agriculture or by the United States food and drug administration, if the pharmaceutical is to be administered to an

animal that is raised by a farmer for the purpose of producing for sale an agricultural product.

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

(3) For the purposes of this section and RCW 82.12.880, the following definitions apply:

(a) "Farmer" and "agricultural product" mean the same as in RCW 82.04.213.

(b) "Veterinarian" means a person who is licensed to practice veterinary medicine, surgery, or dentistry under chapter 18.92 RCW. [2001 2nd sp.s. c 17 § 1.]

Effective date—2001 2nd sp.s. c 17: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect August 1, 2001." [2001 2nd sp.s. c 17 § 3.]

RCW 82.08.890 Exemptions—Qualifying livestock nutrient management equipment and facilities.

(1) The tax levied by RCW 82.08.020 does not apply to sales to eligible persons of:

(a) Qualifying livestock nutrient management equipment;

(b) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and

(c) (i) Labor and services rendered in respect to repairing, cleaning, altering, or improving of qualifying livestock nutrient management facilities, or to tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

(ii) The exemption provided in this subsection (1) (c) does not apply to the sale of or charge made for: (A) Labor and services rendered in respect to the constructing of new, or replacing previously existing, qualifying livestock nutrient management facilities; or (B) tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities during the course of constructing new, or replacing previously existing, qualifying livestock nutrient management facilities.

(2) The exemption provided in subsection (1) of this section applies to sales made after the livestock nutrient management plan is:

(a) Certified under chapter 90.64 RCW; (b) approved as part of the permit issued under chapter 90.48 RCW; or (c) approved as required under subsection (4) (c) (iii) of this section.

(3) (a) The department of agriculture must provide a list of eligible persons, as defined in subsection (4) (c) (i) and (ii) of this section, to the department of revenue upon request. Conservation districts must maintain lists of eligible persons as defined in subsection (4) (c) (iii) of this section to allow the department of revenue to verify eligibility.

(b) A purchaser claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. Sellers making tax-exempt sales under this section must

obtain an exemption certificate from the purchaser in a form and manner prescribed by the department. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. The seller must retain a copy of the certificate or the data elements for the seller's files.

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

(a) "Animal feeding operation" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

(i) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and

(ii) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(b) "Conservation district" means a subdivision of state government organized under chapter 89.08 RCW.

(c) "Eligible person" means a person: (i) Licensed to produce milk under chapter 15.36 RCW who has a certified dairy nutrient management plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding operation and has a permit issued under chapter 90.48 RCW; or (iii) who owns an animal feeding operation and has a nutrient management plan approved by a conservation district as meeting natural resource conservation service field office technical guide standards and who qualifies for the exemption provided under RCW 82.08.855.

(d) "Handling and treatment of livestock manure" means the activities of collecting, storing, moving, or transporting livestock manure, separating livestock manure solids from liquids, or applying livestock manure to the agricultural lands of an eligible person other than through the use of pivot or linear type traveling irrigation systems.

(e) "Permit" means either a state waste discharge permit or a national pollutant discharge elimination system permit, or both.

(f) "Qualifying livestock nutrient management equipment" means the following tangible personal property for exclusive use in the handling and treatment of livestock manure, including repair and replacement parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers; (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler irrigation systems; (vii) lagoon and pond liners and floating covers; (viii) loaders; (ix) manure composting devices; (x) manure spreaders; (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry house washers; (xvi) poultry litter saver machines; (xvii) pipes; (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

(g) "Qualifying livestock nutrient management facilities" means the following structures and facilities for exclusive use in the handling and treatment of livestock manure: (i) Flush systems; (ii) lagoons; (iii) liquid livestock manure storage structures, such as concrete tanks or glass-lined steel tanks; and (iv) structures used solely for the dry storage of manure, including roofed stacking facilities.

(5) The exemption under this section does not apply to sales made from July 1, 2010, through June 30, 2013. [2014 c 97 § 602; 2010 1st

sp.s. c 23 § 601; 2009 c 469 § 601; 2006 c 151 § 2; 2001 2nd sp.s. c 18 § 2.]

Effective date—2010 1st sp.s. c 23 §§ 107, 601, 602, 702, 902, 1202, and 1401-1405: See note following RCW 82.04.2907.

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

Effective date—2009 c 469: See note following RCW 82.08.962.

Effective date—2006 c 151: "This act takes effect July 1, 2006." [2006 c 151 § 7.]

Intent—2001 2nd sp.s. c 18: "It is the intent of the legislature to provide tax exemptions to assist dairy farmers to comply with the dairy nutrient management act, chapter 90.64 RCW, to encourage owners of nondairy animal feeding operations to develop and implement approved nutrient management plans, and to assist public or private entities to establish and operate anaerobic digesters to treat livestock nutrients on a regional or on-farm basis." [2006 c 151 § 1; 2001 2nd sp.s. c 18 § 1.]

Effective date—2001 2nd sp.s. c 18: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 13, 2001]." [2001 2nd sp.s. c 18 § 6.]

RCW 82.08.900 Exemptions—Anaerobic digesters. (1) The tax levied by RCW 82.08.020 does not apply to sales to an eligible person:

(a) In respect to equipment necessary to process biogas from a landfill into marketable coproducts, including but not limited to biogas conditioning, compression, and electrical generation equipment, or to services rendered in respect to installing, constructing, repairing, cleaning, altering, or improving equipment necessary to process biogas from a landfill into marketable coproducts; and

(b) Establishing or operating an anaerobic digester or to services rendered in respect to installing, constructing, repairing, cleaning, altering, or improving an anaerobic digester, or to sales of tangible personal property that becomes an ingredient or component of the anaerobic digester.

(2) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection apply to this section and RCW 82.12.900 unless the context clearly requires otherwise:

(a) "Anaerobic digester" means a facility that processes organic material into biogas and digestate using microorganisms in a decomposition process within a closed, oxygen-free container as well as the equipment necessary to process biogas or digestate produced by an anaerobic digester into marketable coproducts, including but not

limited to biogas conditioning, compression, nutrient recovery, and electrical generation equipment.

(b) "Eligible person" means any person establishing or operating an anaerobic digester or landfill or processing biogas from an anaerobic digester or landfill into marketable coproducts. [2018 c 164 § 4; 2015 c 86 § 202; 2006 c 151 § 4; 2001 2nd sp.s. c 18 § 4.]

Reviser's note: The tax preference enacted in section 4, chapter 164, Laws of 2018 expires January 1, 2029, pursuant to the automatic expiration date established in RCW 82.32.805(1)(a).

Tax preference performance statement—2018 c 164: "This section is the tax preference performance statement for the tax preferences contained in sections [3,] 4, 6, 8, and 9, chapter 164, Laws of 2018. The performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the production of renewable natural gas in Washington state. It is the legislature's intent to reinstate and expand tax incentives for certain landfills and anaerobic digesters in order to stimulate investment in biogas capture and conditioning, compression, nutrient recovery, and use of renewable natural gas for heating, electricity generation, and transportation fuel.

(3) To measure the effectiveness of the tax preferences in sections [3,] 4, 6, 8, and 9, chapter 164, Laws of 2018 in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of public and private landfills and anaerobic digesters producing renewable natural gas in the state and the extent to which they are utilizing these incentives.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary." [2018 c 164 § 1.]

Effective date—2018 c 164: "This act takes effect July 1, 2018." [2018 c 164 § 10.]

Effective date—Conservation commission—Report to legislature—2006 c 151: See notes following RCW 82.08.890.

Intent—Effective date—2001 2nd sp.s. c 18: See notes following RCW 82.08.890.

RCW 82.08.910 Exemptions—Propane or natural gas to heat chicken structures. (1) The tax levied by RCW 82.08.020 does not apply to sales to farmers of propane or natural gas used to heat structures used to house chickens. The propane or natural gas must be used

exclusively to heat the structures. The structures must be used exclusively to house chickens that are sold as agricultural products.

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

(3) The definitions in this subsection apply to this section and RCW 82.12.910.

(a) "Structures" means barns, sheds, and other similar buildings in which chickens are housed.

(b) "Farmer" has the same meaning as provided in RCW 82.04.213.

(c) "Agricultural product" has the same meaning as provided in RCW 82.04.213. [2001 2nd sp.s. c 25 § 3.]

Purpose—Intent—Part headings not law—2001 2nd sp.s. c 25: See notes following RCW 82.04.260.

RCW 82.08.920 Exemptions—Chicken bedding materials. (1) The tax levied by RCW 82.08.020 does not apply to sales to a farmer of bedding materials used to accumulate and facilitate the removal of chicken manure. The farmer must be raising chickens that are sold as agricultural products.

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

(3) The definitions in this subsection apply to this section and RCW 82.12.920.

(a) "Bedding materials" means wood shavings, straw, sawdust, shredded paper, and other similar materials.

(b) "Farmer" has the same meaning as provided in RCW 82.04.213.

(c) "Agricultural product" has the same meaning as provided in RCW 82.04.213. [2001 2nd sp.s. c 25 § 5.]

Purpose—Intent—Part headings not law—2001 2nd sp.s. c 25: See notes following RCW 82.04.260.

RCW 82.08.925 Exemptions—Dietary supplements. The tax levied by RCW 82.08.020 shall not apply to sales of dietary supplements for human use dispensed or to be dispensed to patients, pursuant to a prescription. "Dietary supplement" has the same meaning as in RCW 82.08.0293. [2003 c 168 § 302.]

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

RCW 82.08.935 Exemptions—Disposable devices used to deliver prescription drugs for human use. The tax levied by RCW 82.08.020 shall not apply to sales of disposable devices used or to be used to deliver drugs for human use, pursuant to a prescription. "Disposable devices used to deliver drugs" means single use items such as syringes, tubing, or catheters. [2003 c 168 § 404.]

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

RCW 82.08.940 Exemptions—Over-the-counter drugs for human use. The tax levied by RCW 82.08.020 shall not apply to sales of over-the-counter drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription. "Over-the-counter drug" has the same meaning as in RCW 82.08.0281. [2003 c 168 § 405.]

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

RCW 82.08.945 Exemptions—Kidney dialysis devices. The tax levied by RCW 82.08.020 shall not apply to sales of kidney dialysis devices, including repair and replacement parts, for human use pursuant to a prescription. In addition, the tax levied by RCW 82.08.020 shall not apply to charges made for labor and services rendered in respect to the repairing, cleaning, altering, or improving of kidney dialysis devices. [2004 c 153 § 110; 2003 c 168 § 410.]

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

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

RCW 82.08.950 Exemptions—Steam, electricity, electrical energy. The tax levied by RCW 82.08.020 shall not apply to sales of steam, electricity, or electrical energy. [2003 c 168 § 703.]

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

RCW 82.08.956 Exemptions—Hog fuel used to generate electricity, steam, heat, or biofuel. (Expires June 30, 2024.) (1) The tax levied by RCW 82.08.020 does not apply to sales of hog fuel used to produce electricity, steam, heat, or biofuel. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) For the purposes of this section the following definitions apply:

(a) "Hog fuel" means wood waste and other wood residuals including forest derived biomass. "Hog fuel" does not include firewood or wood pellets; and

(b) "Biofuel" means a liquid or gaseous fuel derived from organic matter intended for use as a transportation fuel including, but not limited to, biodiesel, renewable diesel, ethanol, renewable natural gas, and renewable propane.

(3) If a taxpayer who claimed an exemption under this section closes a facility in Washington for which employment positions were reported under RCW 82.32.605, resulting in a loss of jobs located

within the state, the department must declare the amount of the tax exemption claimed under this section for the previous two calendar years to be immediately due.

(4) This section expires June 30, 2024. [2021 c 145 § 11; 2013 2nd sp.s. c 13 § 1002; 2009 c 469 § 301.]

Intent—2013 2nd sp.s. c 13: "It is the intent of the legislature to retain and grow family-wage jobs in rural, economically distressed areas; to promote healthy forests; and to utilize Washington's abundant natural resources to promote diversified renewable energy use in the state." [2013 2nd sp.s. c 13 § 1001.]

Effective date—2013 2nd sp.s. c 13: "Parts III, X, XV, and XVI of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2013." [2013 2nd sp.s. c 13 § 1903.]

Effective date—2009 c 469: See note following RCW 82.08.962.

RCW 82.08.962 Exemptions—Sales of machinery and equipment used in generating electricity. (Expires January 1, 2030.) (1)(a) Subject to the requirements of this section, the tax imposed by RCW 82.08.020 does not apply to sales of machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the purchaser must pay the state and local sales tax on such sales and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through December 31, 2019, the amount of the exemption under this subsection (1)(b) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

(c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under subsection (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it

has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, and labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c) (i) (A) of this subsection, and the purchaser provides the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations, consistent with (e) (ii) (D) of this subsection;

(ii) Seventy-five percent of the state and local sales tax paid, if the department of labor and industries certifies that the project complies with (c) (i) (A) and (B) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries. This subsection (1) (c) (ii) does not apply with respect to solar energy systems described in (c) (i) (B) of this subsection; or

(iii) One hundred percent of the state and local sales tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1) (c) (iii) does not apply with respect to solar energy systems described in (c) (i) (B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the purchaser is entitled to an exemption under this subsection (1) (e) in an amount equal to one hundred percent of the state and local sales tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e) (i) of this subsection, and the seller meets the following requirements at the time of the sale for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(D) Has had no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months.

(f) Purchasers claiming an exemption under (e) of this subsection must provide the seller with an exemption certificate in a form and manner prescribed by the department.

(g) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2)(a) The department of labor and industries must adopt emergency and permanent rules to:

(i) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(ii) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(b) Emergency rules must be adopted by December 1, 2019, and take effect January 1, 2020.

(3) For purposes of this section and RCW 82.12.962, the following definitions apply:

(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of

machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(d) "Project labor agreement" and "community workforce agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4) (a) Machinery and equipment is "used directly" in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust if it provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(5) (a) (i) A purchaser claiming an exemption in the form of a remittance under subsection (1) (b) or (c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries as prescribed by rule under subsection (2) of this section.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

(6) (a) Except as otherwise provided in (c) of this subsection, from October 1, 2017, through December 31, 2019, the exemption provided by this section does not apply to: (i) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity; or (ii) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and

services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after January 1, 2020.

(c) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after July 1, 2019.

(7) This section expires January 1, 2030. [2019 c 288 § 18; 2018 c 164 § 5; 2017 3rd sp.s. c 36 § 14; 2013 2nd sp.s. c 13 § 1502; 2009 c 469 § 101.]

Tax preference performance statement—2019 c 288 §§ 18 and 19:

"This section is the tax preference performance statement for the tax preferences contained in sections 18 and 19, chapter 288, Laws of 2019. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to reduce the amount of carbon dioxide emissions in Washington. It is the legislature's intent to extend the expiration date of and expand the existing sales and use tax exemption for machinery and equipment used directly in generating certain types of alternative energy, in order to reduce the price charged to customers for that machinery and equipment, thereby inducing some customers to buy machinery and equipment for alternative energy when they might not otherwise, thereby displacing electricity from fossil-fueled generating resources, thereby reducing the amount of carbon dioxide emissions in Washington. It is also the intent of the legislature to maximize cost savings associated with clean energy construction for Washington electric customers by encouraging development of these resources in time for projects to benefit from both this incentive and expiring federal incentives.

(3) It is also the legislature's specific public policy objective to provide an incentive for more of the projects that meet the objectives of subsection (2) of this section to be constructed with high labor standards, including family level wages and providing benefits including health care and pensions, as well as maximizing access to economic benefits from such projects for local workers and diverse businesses.

(4) The joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW for the tax preferences contained in sections 18 and 19, chapter 288, Laws of 2019 and it is the intent of the legislature to allow the tax preferences to expire upon their scheduled expiration dates." [2019 c 288 § 17.]

Findings—Intent—Effective date—2019 c 288: See RCW 19.405.010 and 19.405.901.

Effective date—2018 c 164: See note following RCW 82.08.900.

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

Intent—2013 2nd sp.s. c 13: "It is the intent of the legislature to help promote energy independence in the state of Washington and to better position Washington to attract a vibrant clean energy technology manufacturing sector to the state. The purpose of the tax preference created in part XV of this act is to incentivize electricity generation from renewable energy sources, reducing the costs of transitioning to these sources and technologies by exempting machinery, equipment, and labor and service charges associated with such electricity generation from the retail sales and use tax. This tax preference makes the most of the local renewable resources, protects us from the price volatility of certain fossil fuel sources, and helps the state achieve its greenhouse gas emissions targets. In addition, promoting manufacture and installation of facilities capable of generating power from renewable sources can create economic benefits in both rural and urban counties, creating high-quality jobs and developing a skilled workforce in an industry sector in which significant job growth is anticipated over the coming decades." [2013 2nd sp.s. c 13 § 1501.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.08.956.

Effective date—2009 c 469: "Except for sections 801 and 802 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009." [2009 c 469 § 902.]

RCW 82.08.965 Exemptions—Semiconductor materials manufacturing. (Contingent effective date; contingent expiration date.) (1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered in respect to the constructing of new buildings used for the manufacturing of semiconductor materials, to sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) To be eligible under this section the manufacturer or processor for hire must meet the following requirements for an eight-year period, such period beginning the day the new building commences commercial production, or a portion of tax otherwise due will be immediately due and payable pursuant to subsection (3) of this section:

(a) The manufacturer or processor for hire must maintain at least seventy-five percent of full employment at the new building for which the exemption under this section is claimed.

(b) Before commencing commercial production at a new facility the manufacturer or processor for hire must meet with the department to

review projected employment levels in the new buildings. The department, using information provided by the taxpayer, must make a determination of the number of positions that would be filled at full employment. This number must be used throughout the eight-year period to determine whether any tax is to be repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(c) In those situations where a production building in existence on *the effective date of this section will be phased out of operation during which time employment at the new building at the same site is increased, the manufacturer or processor for hire must maintain seventy-five percent of full employment at the manufacturing site overall.

(d) No application is necessary for the tax exemption. The person is subject to all the requirements of chapter 82.32 RCW. A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) If the employment requirement is not met for any one calendar year, one-eighth of the exempt sales and use taxes will be due and payable by April 1st of the following year. The department must assess interest to the date the tax was imposed, but not penalties, on the taxes for which the person is not eligible.

(4) The exemption applies to new buildings, or parts of buildings, that are used exclusively in the manufacturing of semiconductor materials, including the storage of raw materials and finished product.

(5) For the purposes of this section:

(a) "Commencement of commercial production" is deemed to have occurred when the equipment and process qualifications in the new building are completed and production for sale has begun.

(b) "Full employment" is the number of positions required for full capacity production at the new building, for positions such as line workers, engineers, and technicians.

(c) "Semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(6) No exemption may be taken after the expiration date of this section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(7) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs. [2017 3rd sp.s. c 37 § 510; (2017 3rd sp.s. c 37 § 509 expired January 1, 2018); 2017 c 135 § 22; 2010 c 114 § 123; 2003 c 149 § 5.]

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

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

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

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

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

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

RCW 82.08.9651 Exemptions—Gases and chemicals used in production of semiconductor materials. (Expires December 1, 2028.)

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

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

(5) This section expires December 1, 2028. [2021 c 145 § 12; 2020 c 139 § 17; 2017 3rd sp.s. c 37 § 506; (2017 3rd sp.s. c 37 § 505 expired January 1, 2018); 2017 c 135 § 23; 2014 c 97 § 405; 2010 c 114 § 124; 2009 c 469 § 502; 2006 c 84 § 3.]

Tax preference performance statement—2020 c 139; 2017 3rd sp.s. c 37 §§ 505-508: "(1) This section is the tax preference performance statement for the tax preferences contained in sections 505 through 508, chapter 37, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to encourage significant construction projects; retain, expand, and attract semiconductor business; and encourage and expand family-wage jobs. It is the legislature's intent to extend by ten years the exemptions for sales and use of gases and chemicals used in the production of semiconductor materials, in order to encourage the growth and retention of the semiconductor business in Washington,

thereby strengthening Washington's competitiveness with other states for manufacturing investment.

(4) If a review finds that the number of construction projects in the industry has increased, and that the number of people employed by the solar silicon, silicon manufacturing, and semiconductor fabrication industry in Washington is the same or more than in 2015, and that at least sixty percent of employees earn sixty thousand dollars a year, then the legislature intends to extend the expiration date of the tax preferences.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data from the department of revenue's annual survey for tax years ending before January 1, 2020, and annual tax performance report for subsequent tax years." [2020 c 139 § 2; 2017 3rd sp.s. c 37 § 504.]

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

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

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

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

Effective date—2009 c 469: See note following RCW 82.08.962.

Effective date—2006 c 84 §§ 2-8: See note following RCW 82.04.2404.

Findings—Intent—2006 c 84: See note following RCW 82.04.2404.

RCW 82.08.970 Exemptions—Gases and chemicals used to manufacture semiconductor materials. (*Contingent effective date; contingent expiration date.*) (1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires January 1, 2024, unless the contingency in RCW 82.32.790(2) occurs. [2017 3rd sp.s. c 37 § 520; (2017 3rd sp.s. c 37 § 519 expired January 1, 2018); 2017 c 135 § 24; 2010 c 114 § 125; 2003 c 149 § 7.]

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

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

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

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

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

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

RCW 82.08.975 Exemptions—Computer parts and software related to the manufacture of commercial airplanes. (*Expires July 1, 2040.*) (1) The tax levied by RCW 82.08.020 does not apply to sales of computer hardware, computer peripherals, or software, not otherwise eligible for exemption under RCW 82.08.02565, used primarily in the development, design, and engineering of aerospace products or in providing aerospace services, or to sales of or charges made for labor and services rendered in respect to installing the computer hardware, computer peripherals, or software.

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

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

(a) "Aerospace products" means:

(i) Commercial airplanes and their components;

(ii) Machinery and equipment that is designed and used primarily for the maintenance, repair, overhaul, or refurbishing of commercial airplanes or their components by federal aviation regulation part 145 certificated repair stations; and

(iii) Tooling specifically designed for use in manufacturing commercial airplanes or their components.

(b) "Aerospace services" means the maintenance, repair, overhaul, or refurbishing of commercial airplanes or their components, but only when such services are performed by a FAR part 145 certificated repair station.

(c) "Commercial airplane" and "component" have the same meanings provided in RCW 82.32.550.

(d) "Peripherals" includes keyboards, monitors, mouse devices, and other accessories that operate outside of the computer, excluding cables, conduit, wiring, and other similar property.

(4) This section expires July 1, 2040. [2013 3rd sp.s. c 2 § 11; 2008 c 81 § 2; 2003 2nd sp.s. c 1 § 9.]

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

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

Findings—2008 c 81: "The legislature finds that the aerospace industry provides good wages and benefits for the thousands of engineers, mechanics, support staff, and other employees working directly in the industry throughout the state. The legislature further finds that suppliers and vendors that support the aerospace industry in turn provide a range of well-paying jobs. In 2003, and again in 2006, the legislature determined it was in the public interest to encourage the continued presence of this industry through the provision of tax incentives.

However, the legislature recognizes that key elements of Washington's aerospace industry cluster were afforded few, if any, of the aerospace tax incentives enacted in 2003 and 2006. The comprehensive tax incentives in this act are intended to more comprehensively address the cost of doing business in Washington state compared to locations in other states for a larger segment of the aerospace industry cluster." [2008 c 81 § 1.]

Savings—2008 c 81: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2008 c 81 § 17.]

Effective date—2008 c 81: "This act takes effect July 1, 2008." [2008 c 81 § 18.]

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

RCW 82.08.980 Exemptions—Labor, services, and personal property related to the manufacture of commercial airplanes. (Expires July 1, 2040.) (1) The tax levied by RCW 82.08.020 does not apply to:

(a) Charges, for labor and services rendered in respect to the constructing of new buildings, made to (i) a manufacturer engaged in the manufacturing of commercial airplanes or the fuselages or wings of commercial airplanes or (ii) a port district, political subdivision, or municipal corporation, to be leased to a manufacturer engaged in the manufacturing of commercial airplanes or the fuselages or wings of commercial airplanes;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed

by the department. The seller must retain a copy of the certificate for the seller's files.

(3) No application is necessary for the tax exemption in this section. However, in order to qualify under this section before starting construction, the port district, political subdivision, or municipal corporation must have entered into an agreement with the manufacturer to build such a facility. A person claiming the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) The exemption in this section applies to buildings or parts of buildings, including buildings or parts of buildings used for the storage of raw materials or finished product, that are used primarily in the manufacturing of any one or more of the following products:

- (a) Commercial airplanes;
- (b) Fuselages of commercial airplanes; or
- (c) Wings of commercial airplanes.

(5) For the purposes of this section, "commercial airplane" has the meaning given in RCW 82.32.550.

(6) This section expires July 1, 2040. [2017 c 135 § 25; 2013 3rd sp.s. c 2 § 3; 2010 c 114 § 126; 2003 2nd sp.s. c 1 § 11.]

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

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

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

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

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

RCW 82.08.983 Exemptions—Wax and ceramic materials. (1) The tax levied by RCW 82.08.020 does not apply to sales of wax and ceramic materials used to create molds consumed during the process of creating ferrous and nonferrous investment castings used in industrial applications. The tax also does not apply to labor or services used to create wax patterns and ceramic shells used as molds and consumed during the process of creating ferrous and nonferrous investment castings used in industrial applications.

(2) A person claiming the exemption under this section must claim the exemption in a form and manner prescribed by the department. [2010 c 225 § 1.]

Reviser's note: Chapter 6, Laws of 2015 3rd sp.s. was signed by the governor on July 1, 2015. 2015 3rd sp.s. c 6 § 1202 removed the expiration date of 2010 c 225 §§ 1 and 2 by repealing 2010 c 225 § 4.

Tax preference performance statement—2015 3rd sp.s. c 6: "(1) This section is the tax preference performance statement for the tax preference contained in section 1202 of this act. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to provide permanent tax relief that corrects the structural inefficiencies under RCW 82.08.983 with regard to wax and ceramic materials used to create molds during the process of creating ferrous and nonferrous investment castings used in industrial applications." [2015 3rd sp.s. c 6 § 1201.]

Tax preference intended to be permanent—2015 3rd sp.s. c 6: "As this part is intended to create a permanent tax exemption, the tax preference in this act is not subject to the expiration date requirements in RCW 82.32.805 and is not subject to the requirements in RCW 82.32.808(4)." [2015 3rd sp.s. c 6 § 1203.]

Effective date—2010 c 225: "This act takes effect July 1, 2010." [2010 c 225 § 3.]

RCW 82.08.985 Exemptions—Insulin. The tax levied by RCW 82.08.020 shall not apply to sales of insulin for human use. [2004 c 153 § 102.]

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

RCW 82.08.986 Exemptions—Eligible server equipment—Eligible power infrastructure—Computer data centers. (*Expires July 1, 2048.*)

(1)(a) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses and to qualifying tenants of eligible server equipment to be installed, without intervening use, in an eligible computer data center to which a valid exemption certificate applies, and to charges made for labor and services rendered in respect to installing eligible server equipment.

(b) This exemption also applies to sales to qualifying businesses and to qualifying tenants of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure at an eligible computer data center for which an exemption certificate has been issued.

(c) No new exemption certificates may be issued on or after July 1, 2036.

(d) The exemptions provided in this section expire July 1, 2048.

(e) Each calendar year, the department may issue no more than six certificates for data centers which qualify through refurbishment. Certificates are available for refurbished data centers on a first-in-time basis based on the date the application required under this section is received by the department. Each qualifying business may apply for only one certificate for a refurbished data center each calendar year.

(2)(a) In order to obtain an exemption certificate under this section, a qualifying business or a qualifying tenant must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the

department, to determine that a business or tenant qualifies for the exemption under this section. The department must issue exemption certificates to qualifying businesses and qualifying tenants. The department may assign a unique identification number to each exemption certificate issued under this section.

(b) A qualifying business or a qualifying tenant claiming the exemption under this section must present the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(c) With respect to computer data centers for which the commencement of construction occurs after July 1, 2015, but before July 1, 2019, the exemption provided in this section is limited to no more than eight computer data centers, with total eligible data centers provided under this section limited to twelve from July 1, 2015, through June 9, 2022. Tenants of qualified data centers do not constitute additional data centers under the limit. The exemption is available on a first-in-time basis based on the date the application required under this section is received by the department.

(d) The exemption certificate is effective on the date the application is received by the department, which is deemed to be the date of issuance. Only purchases on or after the date of issuance qualify for the exemption under this section. No tax refunds are authorized for purchases made before the effective date of the exemption certificate.

(e) Exemption certificates expire two years after the date of issuance, unless construction has been commenced.

(3) (a) (i) Within six years of the date that the department issued an exemption certificate under this section to a qualifying business or a qualifying tenant with respect to an eligible computer data center, the qualifying business or qualifying tenant must establish that net employment assigned to an eligible computer data center has increased by a minimum of:

(A) Thirty-five family wage employment positions; or, if lower

(B) Three family wage employment positions for each twenty thousand square feet of space or less that is newly dedicated to housing working servers at the eligible computer data center. For qualifying tenants, the number of family wage employment positions that must be increased under this subsection (3) (a) (i) (B) is based only on the space occupied by the qualifying tenant in the eligible computer data center.

(ii) After the minimum number of family wage employment positions as required under (a) (i) of this subsection (3) is established, a qualifying business or a qualifying tenant must maintain the minimum family wage employment positions required under (a) (i) of this subsection (3) while the exemption certificate is valid.

(b) In calculating the net increase in family wage employment positions:

(i) The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

(A) The net increase, since the date of issuance of the qualifying business's exemption certificate, in family wage employment positions employed by qualifying tenants; and

(B) The net increase in family wage employment positions described in (c) (ii) (B) of this subsection (3).

(ii) (A) Qualifying tenants, in addition to their own net increase in family wage employment positions, may include:

(I) A portion of the net increase in family wage employment positions employed by the owner; and

(II) A portion of the net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(B) The portion of the net increase in family wage employment positions to be counted under this subsection (3)(b)(ii) by each qualifying tenant is equal to the net increase in family wage employment positions assigned to an eligible computer data center as described in (b)(ii)(A)(I) and (II) of this subsection (3), multiplied by the percentage of total space within the eligible computer data center occupied by the qualifying tenant. Any combination of qualifying business and qualifying tenant family wage employment positions may meet this requirement.

(C)(I) In the instance of an existing data center facility that was ineligible, regardless of the date of commencement of construction, that later obtains an exemption certificate under this section, the data center may count the existing employment positions that are dedicated to the data center toward the family wage employment position requirements if the employment positions meet the requirements of a family wage employment position as described in (c)(i)(B) and (C) of this subsection (3).

(II) In the instance of the refurbishment of an existing data center that previously qualified under the data center program, the data center may count the existing employment positions dedicated to the data center toward the family wage employment position requirements if the employment positions meet the requirements of a family wage employment position as described in (c)(i)(B) and (C) of this subsection (3).

(c)(i) For purposes of this subsection:

(A) For exemption certificates issued before June 9, 2022, family wage employment positions are new permanent employment positions requiring forty hours of weekly work, or their equivalent, on a full-time basis assigned to an eligible computer data center and receiving a wage equivalent to or greater than one hundred fifty percent of the per capita personal income of the county in which the qualified project is located as published by the employment security department. The per capita personal income to be used to determine qualification for any year is the amount that was established for the immediate prior year.

(B) For exemption certificates issued on or after June 9, 2022, family wage employment positions are new permanent employment positions requiring 40 hours of weekly work, or their equivalent, on a full-time basis assigned to an eligible computer data center and receiving a wage equivalent to or greater than 125 percent of the per capita personal income of the county in which the qualified project is located as published by the employment security department. The per capita personal income to be used to determine qualification for any year is the amount that was established for the immediate prior year.

(C) An employment position may not be counted as a family wage employment position unless the employment position is entitled to health insurance coverage provided by the employer of the employment position.

(D) "New permanent employment position" means an employment position that did not exist or that had not previously been filled as of the date that the department issued an exemption certificate to the qualifying business or qualifying tenant of an eligible computer data center, as the case may be.

(ii)(A) Family wage employment positions include positions filled by employees of the qualifying business and by employees of qualifying tenants.

(B) Family wage employment positions also include individuals performing work at an eligible computer data center as an independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is necessary for the operation of the computer data center, such as security and building maintenance, and provided that all of the applicable requirements in (c)(i) of this subsection (3) are met.

(d)(i) For a qualifying business or qualifying tenant that does not meet the requirements of this subsection (3), previously exempted sales and use taxes are immediately due and payable and any exemption certificate issued to that qualifying business or qualifying tenant under this section is canceled, except as described in (d)(iii) of this subsection (3).

(ii) The department of labor and industries must, at the request of the department, assist in determining whether the requirements of this subsection (3) have been met.

(iii) If the department, with the assistance of the department of labor and industries, finds that a failure to meet the requirements of this subsection (3) is due to circumstances beyond the control of the qualifying business or qualifying tenant including, but not limited to, a declaration of an economic recession, pandemic, or natural disaster affecting data center operations, the department may provide exceptions or extensions to the requirements of this subsection (3).

(iv) Any repayment of taxes triggered by the failure of a qualifying business or qualifying tenant to meet the requirements of this subsection (3) must be calculated in proportion to the duration of time for which any applicable requirement was not met.

(v) If the department is notified that a qualifying business or qualifying tenant fails to meet the requirements of this subsection (3), the department may require a qualifying business or qualifying tenant to submit records necessary to determine whether the requirements have been met.

(4) For exemption certificates issued on or after June 9, 2022:

(a) Within three years after being placed in service, the qualifying business operating a newly constructed data center must certify to the department that it has attained certification under one or more of the following sustainable design or green building standards:

(i) BREEAM for new construction or BREEAM in-use;

(ii) Energy star;

(iii) Envision;

(iv) ISO 50001-energy management;

(v) LEED for building design and construction or LEED for operations and maintenance;

(vi) Green globes for new construction or green globes for existing buildings;

(vii) UL 3223; or

(viii) Other reasonable standards approved by the department.

(b) The department may require qualifying businesses and qualifying tenants to submit records necessary to verify the requirements under (a) of this subsection have been met.

(c)(i) For a qualifying business or qualifying tenant that does not meet the requirements of (a) of this subsection (4), all

previously exempted sales and use taxes may be immediately due and payable, any exemption certificate issued to that qualifying business or qualifying tenant under this section is canceled, and an additional 10 percent penalty is assessed, except as described in (c)(ii) of this subsection (4).

(ii) If the department finds that a failure to meet the requirements of this subsection (4) is due to circumstances beyond the control of the qualifying business or qualifying tenant including, but not limited to, a declaration of an economic recession, pandemic, or natural disaster affecting data center operations, the department may, at its discretion, provide exceptions or extensions to the requirements of this subsection (4). The department may, at its discretion, coordinate with agencies with relevant expertise to assist in determining whether the requirements have been met.

(5) A qualifying business or a qualifying tenant claiming the exemption under this section is encouraged to take direct steps to adopt practices to mitigate negative environmental impacts resulting from expanded use of data centers, including through:

(a) Coordinating with the industrial waste coordination program established under RCW 43.31.625 to identify and provide technical assistance in implementing industrial symbiosis projects;

(b) To the extent possible, procuring or contracting for power from renewable sources;

(c) Adopting practices to improve the energy efficiency of existing data centers, including through upgrading and consolidating technology, managing data center airflow, and adjusting and improving heating, ventilation, and air conditioning systems; and

(d) Taking actions to conserve, reuse, and replace water. This includes using water efficient fixtures and practices; treating, infiltrating, and harvesting rainwater; recycling water before discharging; partnering with local water utilities to use discharged water for irrigation and other water conservation purposes; using reclaimed water where possible for data center operations; and supporting water restoration in local watersheds.

(6) A qualifying business or a qualifying tenant claiming an exemption under this section or RCW 82.12.986 must complete an annual tax performance report with the department as required under RCW 82.32.534. The report must identify construction firm names and employment levels used for constructing, renovating, refurbishing, or remodeling the data centers.

(7)(a) The certificate holder may not at any time assign or transfer a certificate without the prior written consent of the department. The department must allow certificate transfers if the certificate holder meets the following requirements:

(i) The certificate assignee or transferee is qualified to do business in the state;

(ii) The assignee or transferee acknowledges the transfer of the certificate in writing;

(iii) The assignee or transferee agrees to keep and perform all the terms of the certificates; and

(iv) An assignment or transfer of the certificate is to an entity that:

(A) Controls, is controlled by, or under common control with, the certificate holder;

(B) Acquires all or substantially all of the stock or assets of the certificate holder; or

(C) Is the resulting entity of a merger or consolidation with the certificate holder.

(b) In the event the assignee or transferee acquires eligible server equipment in a qualifying asset sale under (a)(iv)(B) of this subsection, the purchaser shall be deemed to purchase the eligible server equipment pursuant to the transferred certificate.

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

(a) "Affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) "Building" means a fully enclosed structure with a weather resistant exterior wall envelope or concrete or masonry walls designed in accordance with the requirements for structures under chapter 19.27 RCW. This definition of "building" only applies to computer data centers for which commencement of construction occurs on or after July 1, 2015.

(c) "Certificate of occupancy" means:

(i) For a newly constructed eligible computer data center, the certificate of occupancy issued by a local governing authority for the structure or structures which comprise the eligible computer data center; or

(ii) For renovations of an eligible computer data center, the certificate of occupancy issued by a local governing authority for the renovated structure or structures that comprise the eligible computer data center.

(d)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (d)(i)(A) through (C) of this subsection (8).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(e) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting websites. The term also includes providing services such as email, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(f)(i) "Eligible computer data center" means a computer data center:

(A) Located in a rural county as defined in RCW 82.14.370 at the time an application for an exemption under this section is received;

(B) Having at least twenty thousand square feet dedicated to housing working servers; and

(C) For which the commencement of construction occurs:

(I) After March 31, 2010, and before July 1, 2011;

(II) After March 31, 2012, and before July 1, 2015; or

(III) After June 30, 2015, and before July 1, 2035.

(ii) For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center includes the expansion, renovation, or refurbishment of existing facilities regardless of whether the existing facility was previously ineligible and regardless of whether commencement of construction of the existing facility occurred outside of the dates listed in (f)(i)(C)(I) through (III) of this subsection, including leased or rented space. "Commencement of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of a computer data center. If no building permit is required for renovation or refurbishment, then the date that renovation or refurbishment begins is the "commencement of construction."

(g) "Eligible power infrastructure" means all fixtures and equipment owned by a qualifying business or qualifying tenant and necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes generators; wiring; cogeneration equipment; and associated fixtures and equipment, such as electrical switches, batteries, and distribution, testing, and monitoring equipment. The term does not include substations.

(h) "Eligible server equipment" means:

(i) For a qualifying business whose computer data center qualifies as an eligible computer data center under (f)(i)(C)(I) of this subsection (8), the original server equipment installed in an eligible computer data center on or after April 1, 2010, and before January 1, 2026, and replacement server equipment. For purposes of this subsection (8)(h)(i), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2018.

(ii) For a qualifying business whose computer data center qualifies as an eligible computer data center under (f)(i)(C)(II) of this subsection (8), "eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2012, and before January 1, 2026, and replacement server equipment. For purposes of this subsection (8)(h)(ii), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2024.

(iii) For a qualifying business whose computer data center qualifies as an eligible computer data center under (f)(i)(C)(III) of this subsection (8), "eligible server equipment" means the original server equipment installed in a building within an eligible computer data center on or after July 1, 2015, and replacement server equipment. Server equipment installed in movable or fixed stand-alone,

prefabricated, or modular units, including intermodal shipping containers, is not "directly installed in a building." For purposes of this subsection (8)(h)(iii), "replacement server equipment" means server equipment that:

(A)(I) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; or

(II) Replaces existing server equipment in a computer data center that meets the following requirements: Was ineligible before June 9, 2022, for the exemptions provided under this section and RCW 82.12.986; has been refurbished; and to which a valid exemption certificate applies; and

(B) Is installed and put into regular use no later than twelve years after the date of the certificate of occupancy or completion of refurbishment of the computer data center.

(iv) For a qualifying tenant who leases space within an eligible computer data center, "eligible server equipment" means the original server equipment installed within the space it leases from an eligible computer data center with an exemption certificate on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (8)(h)(iv), "replacement server equipment" means server equipment that:

(A)(I) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; or

(II) Replaces existing server equipment in a computer data center that meets the following requirements: Was ineligible before June 9, 2022, for the exemptions provided under this section and RCW 82.12.986; has been refurbished; and to which a valid exemption certificate applies; and

(B) Is installed and put into regular use no later than 12 years after the date of the certificate of occupancy or completion of refurbishment of the computer data center.

(i) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner of an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(j) "Qualifying tenant" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that leases space from a qualifying business within an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state. The term also does not include a lessee of space in an eligible computer data center under (f)(i)(C)(I) of this subsection (8), if the lessee and lessor are affiliated and:

(i) That space will be used by the lessee to house server equipment that replaces server equipment previously installed and operated in that eligible computer data center by the lessor or another person affiliated with the lessee; or

(ii) Prior to May 2, 2012, the primary use of the server equipment installed in that eligible computer data center was to provide electronic data storage and data management services for the business purposes of either the lessor, persons affiliated with the lessor, or both.

(k) (i) "Refurbished" or "refurbishment" means a substantial improvement to an eligible computer data center to update or modernize servers, server space, ventilation, or power infrastructure in an eligible computer data center.

(ii) For a qualifying computer data center to be considered refurbished, the qualifying business must certify, in a form and manner prescribed by the department, that the refurbishment of an eligible computer data center is complete. The refurbishment is considered complete on the date that the improved portion of the computer data center is operationally complete and able to be used for its intended purpose.

(l) "Server equipment" means the computer hardware located in an eligible computer data center and used exclusively to provide electronic data storage and data management services, including cloud services, for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server equipment" also includes computer software necessary to operate the computer hardware. "Server equipment" does not include personal computers, the racks upon which the server equipment is installed, and computer peripherals such as keyboards, monitors, printers, and mice.

(9) This section expires July 1, 2048. [2022 c 267 § 3; 2017 c 135 § 26; 2015 3rd sp.s. c 6 § 302; 2012 2nd sp.s. c 6 § 302; 2010 1st sp.s. c 23 § 1601; 2010 1st sp.s. c 1 § 2.]

Tax preference performance statement—2022 c 267 §§ 3-6: "(1)

This section is the tax preference performance statement for the tax preferences contained in sections 3, 4, 5, and 6, chapter 267, Laws of 2022. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these sales and use tax exemptions on eligible server equipment and eligible power infrastructure equipment at eligible computer data centers as ones intended to: Induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2)(a); improve industry competitiveness as indicated in RCW 82.32.808(2)(b); create or retain jobs as indicated in RCW 82.32.808(2)(c); and reduce structural inefficiencies in the tax structure as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to:

(a) Maintain and grow the existing data center sector in Washington state, and encourage development of new data center facilities and refurbishment of existing data centers, thereby increasing the competitiveness of Washington's tax structure, which will increase or maintain construction and trade job growth in rural areas, and increase local tax revenue streams.

(b) Improve industry competitiveness and to increase, create, or retain jobs in computer data centers in counties with a population over 800,000, as determined by the April 1, 2021, office of financial management population estimates, thereby increasing family wage jobs.

It is the legislature's intent to establish a pilot program that would provide a sales and use tax exemption on eligible server equipment and power infrastructure installed in eligible computer data centers, charges made for labor and services rendered in respect to installing eligible server equipment, and for construction, installation, repair, alteration, or improvement of eligible power infrastructures in order to increase investment in data center construction, leasing, and other investment throughout rural counties and counties with a population over 800,000, as determined by the April 1, 2021, office of financial management population estimates, thereby growing employment in the technology industry while adding real and personal property to state and local property tax rolls, thereby increasing the county tax base.

(4) The legislature intends to extend the expiration date of the tax preference. The joint legislative audit and review committee shall conduct a review and determine if the tax preference is (a) generating capital investment in new computer data centers, refurbished data centers, or existing data centers (e.g., replacement server equipment), (b) generating state and local tax collections from data center investment and operations, and (c) generating or maintaining construction and trade jobs in the state. The review must factor in changing economic conditions.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any available data source, including data available from the department of revenue regarding rural county property tax assessments and employment data from the employment security department." [2022 c 267 § 2.]

Findings—Intent—2022 c 267: "(1) The legislature finds that data centers are a cornerstone for strong internet infrastructure that is critical to the continuing prosperity of Washington's vibrant digital economy.

(2) The legislature further finds that the data center industry is experiencing explosive growth across the nation and the competition among states for data center investments has increased dramatically. A department of commerce study, *2018 State of the Data Center Industry, An Analysis of Washington's Competitiveness*, found that data center growth in rural Washington is at the lower end of the growth rate experienced by other major competitive markets.

(3) The legislature recognizes that rural county data center investments are necessary but insufficient for the state's total economy and competitiveness. Washington is the only state that restricts incentives geographically. As a result, data centers serving urban counties requiring higher performance and that offer colocation services for multiple tenants that foster technology ecosystems are lost to other states, particularly neighboring Oregon.

(4) The legislature further finds that data centers are one of the most energy-intensive building types, consuming 10 to 50 times the energy per floor space of a typical commercial office building. In addition, the legislature finds that it is imperative that the economic expansion of data centers not result in negative environmental impacts to the communities in which the data centers are located. To this end, the legislature encourages data centers to be good environmental stewards for their community through adopting practices to mitigate negative environmental impacts of data centers, such as the use of energy derived from renewable resources,

redirecting waste heat for alternative uses, or other industrial symbiosis practices.

(5) The legislature therefore intends to encourage additional investments in data technology facilities through expanding and extending the current sales and use tax exemption for rural county data centers and establishing a sales and use tax exemption pilot program for data centers in counties with populations over 800,000, which will in turn incentivize local economic development, increased local tax revenues, and construction and trade jobs across Washington through the development of additional data center facilities." [2022 c 267 § 1.]

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

Tax preference performance statement—2015 3rd sp.s. c 6 §§ 302 and 303: "This section is the tax preference performance statement for the sales and use tax exemption contained in sections 302 and 303 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preferences in sections 302 and 303 of this act. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this sales and use tax exemption as one intended to improve industry competitiveness, as indicated in RCW 82.32.808(2)(b).

(2) It is the legislature's specific public policy objective to improve industry competitiveness. It is the legislature's intent to provide a sales and use tax exemption on eligible server equipment and power infrastructure installed in eligible computer data centers, charges made for labor and services rendered in respect to installing eligible server equipment, and for construction, installation, repair, alteration, or improvement of eligible power infrastructures in order to increase investment in data center construction in rural Washington counties, thereby adding real and personal property to state and local property tax rolls, thereby increasing the rural county tax base.

(3) If a review finds that the rural county tax base is increased as a result of the construction of computer data centers eligible for the sales and use tax exemption in sections 302 and 303 of this act, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to data available from the department of revenue regarding rural county property tax assessments." [2015 3rd sp.s. c 6 § 301.]

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

Intent—Finding—2012 2nd sp.s. c 6: "(1) It is the legislature's intent to encourage immediate investments in technology facilities that can provide an economic stimulus, sustain long-term jobs that provide living wages, and help build the digital infrastructure that can enable the state to be competitive for additional technology investment and jobs.

(2) There is currently an intense competition for data center construction and operation in many states including: Oregon, Arizona, North and South Carolina, North Dakota, Iowa, Virginia, Texas, and Illinois. Unprecedented incentives are available as a result of the desire of these states to attract investments that will serve as a catalyst for additional clusters of economic activity.

(3) Data center technology has advanced rapidly, with marked increases in energy efficiency. Large, commercial-grade data centers leverage the economies of scale to reduce energy consumption. Combining digitized processes with the economies of scale recognized at these data centers, today's enterprises can materially reduce the energy they consume and greatly improve their efficiency.

(4) The legislature finds that offering an exemption for server and related electrical equipment and installation will act as a stimulus to incent immediate investment. This investment will bring jobs, tax revenues, and economic growth to some of our state's rural areas." [2012 2nd sp.s. c 6 § 301.]

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

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

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

Intent—Finding—2010 1st sp.s. c 1: "(1) It is the legislature's intent to encourage immediate investments in technology facilities that can provide an economic stimulus, sustain long-term jobs that provide living wages, and help build the digital infrastructure that can enable the state to be competitive for additional technology investment and jobs.

(2) There is currently an intense competition for data center construction and operation in many states including: Oregon, Arizona, North and South Carolina, North Dakota, Iowa, Virginia, Texas, and Illinois. Unprecedented incentives are available as a result of the desire of these states to attract investments that will serve as a catalyst for additional clusters of economic activity.

(3) Since the economic downturn, Washington has not succeeded in attracting any private investments in these centers after siting six major data centers between 2004 and 2007.

(4) Data center technology has advanced rapidly, with marked increases in energy efficiency. Large, commercial-grade data centers leverage the economies of scale to reduce energy consumption. Combining digitized processes with the economies of scale recognized at these data centers, today's enterprises can materially reduce the energy they consume and greatly improve their efficiency.

(5) The legislature finds that a fifteen-month window that offers an exemption for server and related electrical equipment and installation will act as a stimulus to incent immediate investment. This investment will bring jobs, tax revenues, and economic growth to some of our state's rural areas." [2010 1st sp.s. c 1 § 1.]

Effective date—2010 1st sp.s. c 1: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2010." [2010 1st sp.s. c 1 § 4.]

RCW 82.08.9861 Exemptions—Eligible server equipment—Eligible power infrastructure in counties with populations over 800,000.

(Expires July 1, 2038.) (1)(a) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses and to qualifying tenants of eligible server equipment to be installed, without intervening use, in an eligible computer data center to which a valid exemption certificate applies, and to charges made for labor and services rendered in respect to installing eligible server equipment.

(b) The exemption also applies to sales to qualifying businesses and to qualifying tenants of eligible power infrastructure, including labor, material, equipment, and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure at an eligible computer data center for which an exemption certificate has been issued.

(c) No new exemption certificates may be issued on or after July 1, 2028.

(d) The exemptions provided in this section expire July 1, 2038.

(2)(a)(i) In order to obtain an exemption, a qualifying business must be located in a county with a population over 800,000, as determined by the April 1, 2021, office of financial management population estimates and must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that a business or tenant qualifies for the exemption under this section. The department must issue exemption certificates to qualifying businesses and qualifying tenants. The department may assign a unique identification number to each exemption certificate issued under this section.

(ii) For the purposes of demonstrating that the requirements of this subsection (2)(a) are met, a qualifying business must submit records of available power for customers at the time of the application for the exemption under this section. The qualifying business must demonstrate that it has a minimum of 1.5 megawatts of available power. The qualifying business must provide requests for proposals, pricing offered, and marketing materials associated with the requirements of this subsection, as required by the department, as supporting documentation that the requirements of this subsection (2)(a) have been met.

(b) A qualifying business or a qualifying tenant claiming the exemption under this section must present the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(c)(i) The exemptions provided in this section are limited to qualifying businesses or tenants, and the department is authorized to approve:

(A) Six applications to obtain the exemptions for qualifying businesses in the first calendar year of the exemption; and

(B) Six applications to obtain the exemptions for qualifying businesses in each year, calendar year three through calendar year six, of the exemption.

(ii) The exemption is available on a first-in-time basis based on the date the application required under this section is received by the department.

(d) The exemption certificate is effective on the date the application is received by the department, which is deemed to be the date of issuance. Only purchases on or after the date of issuance qualify for the exemption under this section. No tax refunds are authorized for purchases made before the effective date of the exemption certificate.

(e) Exemption certificates expire two years after the date of issuance, unless construction has been commenced.

(f) A qualifying tenant must contract for a minimum electrical capacity of 150 kilowatts for server and computer equipment in a qualifying business. Tenants that previously qualified under RCW 82.08.986 or 82.12.986 must reapply if they intend to expand into a qualifying business.

(3) (a) (i) Within six years of the date that the department issued an exemption certificate under this section to a qualifying business or a qualifying tenant with respect to an eligible computer data center, the qualifying business or qualifying tenant must establish that net employment assigned to an eligible computer data center has increased by a minimum of three family wage employment positions for each incremental increase of 20,000 square feet of space that is newly dedicated to housing working servers at the eligible computer data center. For qualifying tenants, the number of family wage employment positions that must be increased under this subsection (3) (a) (i) is based only on the space occupied by the qualifying tenant in the eligible computer data center.

(ii) After the minimum number of family wage employment positions as required under (a) (i) of this subsection (3) is established, a qualifying business or a qualifying tenant must maintain the minimum family wage employment positions required under (a) (i) of this subsection (3) while the exemption certificate is valid.

(b) In calculating the number of family wage employment positions:

(i) The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

(A) The net increase, since the date of issuance of the qualifying business's exemption certificate, in family wage employment positions employed by qualifying tenants; and

(B) The net increase in family wage employment positions described in (c) (ii) (B) of this subsection (3).

(ii) (A) Qualifying tenants, in addition to their own net increase in family wage employment positions, may include:

(I) A portion of the net increase in family wage employment positions employed by the owner; and

(II) A portion of the net increase in family wage employment positions described in (c) (ii) (B) of this subsection (3).

(B) The portion of the net increase in family wage employment positions to be counted under this subsection (3) (b) (ii) by each qualifying tenant is equal to the net increase in family wage employment positions assigned to an eligible computer data center as described in (b) (ii) (A) (I) and (II) of this subsection (3), multiplied by the percentage of total space within the eligible computer data

center occupied by the qualifying tenant. Any combination of qualifying business and qualifying tenant family wage employment positions may meet this requirement.

(c) (i) For purposes of this subsection:

(A) For exemption certificates issued on or after June 9, 2022, family wage employment positions are new permanent employment positions requiring 40 hours of weekly work, or their equivalent, on a full-time basis assigned to an eligible computer data center and receiving a wage equivalent to or greater than 125 percent of the per capita personal income of the county in which the qualified project is located as published by the employment security department. The per capita personal income to be used to determine qualification for any year is the amount that was established for the immediate prior year.

(B) An employment position may not be counted as a family wage employment position unless the employment position is entitled to health insurance coverage provided by the employer of the employment position.

(C) "New permanent employment position" means an employment position that did not exist or that had not previously been filled as of the date that the department issued an exemption certificate to the qualifying business or qualifying tenant of an eligible computer data center, as the case may be.

(ii) (A) Family wage employment positions include positions filled by employees of the qualifying business and by employees of qualifying tenants.

(B) Family wage employment positions also include individuals performing work at an eligible computer data center as an independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is necessary for the operation of the computer data center, such as security and building maintenance, and provided that all of the requirements in (c) (i) of this subsection (3) are met.

(d) (i) For a qualifying business or qualifying tenant that does not meet the requirements of this subsection (3), all previously exempted sales and use taxes immediately due and payable, and any exemption certificate issued to that qualifying business or qualifying tenant under this section is canceled, except as described in (d) (iii) of this subsection (3).

(ii) The department of labor and industries must, at the request of the department, assist in determining whether the requirements of this subsection (3) have been met.

(iii) If the department, with the assistance of the department of labor and industries, finds that a failure to meet the requirements of this subsection (3) is due to circumstances beyond the control of the qualifying business or qualifying tenant including, but not limited to, a declaration of an economic recession, pandemic, or natural disaster affecting data center operations, the department may provide exceptions or extensions to the requirements of this subsection (3).

(iv) Any repayment of taxes triggered by the failure of a qualifying business or qualifying tenant to meet the requirements of this subsection (3) must be calculated in proportion to the duration of time for which any applicable requirement was not met.

(v) If the department is notified that a qualifying business or qualifying tenant fails to meet the requirements of this subsection (3), the department may require a qualifying business or qualifying

tenant to submit records necessary to determine whether the requirements have been met.

(4) For exemption certificates issued on or after June 9, 2022:

(a) Within three years after being placed in service, the qualifying business operating a newly constructed data center must certify to the department that it has attained certification under one or more of the following sustainable design or green building standards:

(i) BREEAM for new construction or BREEAM in-use;

(ii) Energy star;

(iii) Envision;

(iv) ISO 50001-energy management;

(v) LEED for building design and construction or LEED for operations and maintenance;

(vi) Green globes for new construction or green globes for existing buildings;

(vii) UL 3223; or

(viii) Other reasonable standards approved by the department.

(b) The department may require qualifying businesses and qualifying tenants to submit records necessary to verify the requirements under this subsection (4) have been met.

(c) (i) For a qualifying business or qualifying tenant that does not meet the requirements of this subsection (4), all previously exempted sales and use taxes are immediately due and payable, any exemption certificate issued to that qualifying business or qualifying tenant under this section is canceled, and an additional 10 percent penalty is assessed, except as described in (c) (ii) of this subsection (4).

(ii) If the department finds that a failure to meet the requirements of this subsection (4) is due to circumstances beyond the control of the qualifying business or qualifying tenant including, but not limited to, a declaration of an economic recession, pandemic, or natural disaster affecting data center operations, the department may, at its discretion, provide exceptions or extensions to the requirements of this subsection (4). The department may, at its discretion, coordinate with agencies with relevant expertise to assist in determining whether the requirements of this subsection (4) have been met.

(5) A qualifying business or a qualifying tenant claiming the exemption under this section is encouraged to take direct steps to adopt practices to mitigate negative environmental impacts resulting from expanded use of data centers, including through:

(a) Coordinating with the industrial waste coordination program established under RCW 43.31.625 to identify and provide technical assistance in implementing industrial symbiosis projects;

(b) To the extent possible, procuring or contracting for power from renewable sources;

(c) Adopting practices to improve the energy efficiency of existing data centers, including through upgrading and consolidating technology, managing data center airflow, and adjusting and improving heating, ventilation, and air conditioning systems; and

(d) Taking actions to conserve, reuse, and replace water. This includes using water efficient fixtures and practices; treating, infiltrating, and harvesting rainwater; recycling water before discharging; partnering with local water utilities to use discharged water for irrigation and other water conservation purposes; using

reclaimed water where possible for data center operations; and supporting water restoration in local watersheds.

(6) Qualifying businesses and tenants must claim an exemption under this section in the current tax year when the taxes would have been due unless an extension is filed with the department.

(7) A qualifying business or a qualifying tenant claiming an exemption under this section must complete an annual tax performance report as required in RCW 82.32.534. The report must identify construction firm names and employment levels used for constructing, renovating, refurbishing, or remodeling the data centers.

(8) (a) The certificate holder may not at any time assign or transfer a certificate without the prior written consent of the department. The department must allow certificate transfers if the certificate holder meets the following requirements:

(i) The certificate assignee or transferee is qualified to do business in the state;

(ii) The assignee or transferee acknowledges the transfer of the certificate in writing;

(iii) The assignee or transferee agrees to keep and perform all the terms of the certificates; and

(iv) An assignment or transfer of the certificate is to an entity that:

(A) Controls, is controlled by, or under common control with, the certificate holder;

(B) Acquires all or substantially all of the stock or assets of the certificate holder; or

(C) Is the resulting entity of a merger or consolidation with the certificate holder.

(b) Information submitted on the tax performance report is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request, except as provided otherwise in RCW 82.32.330.

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

(a) "Affiliated" means that one person has a direct or indirect ownership interest of at least 20 percent in another person.

(b) "Building" means a fully enclosed structure with a weather resistant exterior wall envelope or concrete or masonry walls designed in accordance with the requirements for structures under chapter 19.27 RCW.

(c) "Certificate of occupancy" means:

(i) For a newly constructed eligible computer data center, the certificate of occupancy issued by a local governing authority for the structure or structures which comprise the eligible computer data center; or

(ii) For renovations of an eligible computer data center, the certificate of occupancy issued by a local governing authority for the renovated structure or structures that comprise the eligible computer data center.

(d) (i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; continuous on-site security guards; video

camera surveillance; an electronic system requiring passcodes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (d) (i) (A) through (C) of this subsection (9).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least 100,000 square feet.

(e) "Electronic data storage and data management services" includes, but is not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting websites. The term also includes providing services such as email, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(f) "Eligible computer data center" means a computer data center having at least 20,000 square feet dedicated for housing working servers. Movable or fixed stand-alone, prefabricated, or modular units, including intermodal shipping containers, do not qualify as "eligible computer data centers."

(g) "Eligible power infrastructure" means all fixtures and equipment owned by a qualifying business or qualifying tenant and necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes generators; wiring; cogeneration equipment; and associated fixtures and equipment, such as electrical switches, batteries, and distribution, testing, and monitoring equipment. The term does not include substations.

(h) (i) "Eligible server equipment" means for a qualifying business whose computer data center qualifies as an eligible computer data center, the original server equipment installed in an eligible computer data center on or after June 9, 2022, and replacement server equipment.

(ii) For purposes of this subsection (9) (h), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.9861; and

(B) Is installed and put into regular use within 10 years of June 9, 2022.

(iii) For a qualifying tenant who leases space within an eligible computer data center, "eligible server equipment" means the original server equipment installed within the space it leases from an eligible computer data center with an exemption certificate on or within 10 years of June 9, 2022, and replacement server equipment. For purposes of this subsection (9) (h) (iii), "replacement server equipment" means server equipment that:

(A) (I) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.9861 and is installed and put into regular use before July 1, 2027; or

(II) Replaces existing server equipment in a computer data center that meets the following requirements: Was ineligible before June 9, 2022, for the exemptions provided under this section and RCW

82.12.9861; has been refurbished; and to which a valid exemption certificate applies; and

(B) Is installed and put into regular use no later than 12 years after the date of the certificate of occupancy or completion of refurbishment of the computer data center.

(i) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner of an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(j) "Qualifying tenant" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that leases space from a qualifying business within an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(k) (i) "Refurbished" or "refurbishment" means a substantial improvement to an eligible computer data center for which a certificate of occupancy is not issued. Such an improvement must update or modernize servers, server space, ventilation, or power infrastructure in an eligible computer data center.

(ii) For a qualifying computer data center to be considered refurbished, the qualifying business must certify, in a form and manner prescribed by the department, that the refurbishment of an eligible computer data center is complete. The refurbishment is considered complete on the date that the improved portion of the computer data center is operationally complete and able to be used for its intended purpose.

(l) "Server equipment" means the computer hardware located in an eligible computer data center and used exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner. For the purposes of this subsection, "electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting websites. The term also includes providing services such as email, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services. "Server equipment" also includes computer software necessary to operate the computer hardware. "Server equipment" does not include personal computers, the racks upon which the server equipment is installed, and computer peripherals such as keyboards, monitors, printers, and mice, unless used within the eligible computer data center.

(10) This section expires July 1, 2038. [2022 c 267 § 5.]

Tax preference performance statement—2022 c 267 §§ 3-6: See note following RCW 82.08.986.

Findings—Intent—2022 c 267: See note following RCW 82.08.986.

RCW 82.08.988 Requirements for computer data centers receiving an exemption—Labor agreements. From June 9, 2022, in order to obtain the exemption provided in RCW 82.08.986 or 82.08.9861, a qualifying business or qualifying tenant must certify to the department that, for new construction work to be performed on the site of the computer data center, the computer data center receiving an exemption under RCW 82.08.986 or 82.08.9861 will be constructed by the prime contractor and its subcontractors in a way that includes community workforce agreements or project labor agreements and the payment of area standard prevailing wages and apprenticeship utilization requirements, provided the following apply:

(1) The owner and the prime contractor and all of its subcontractors regardless of tier have the absolute right to select any qualified and responsible bidder for the award of contracts on a specified project without reference to the existence or nonexistence of any agreements between such bidder and any party to such project labor agreement, and only when such bidder is willing, ready, and able to become a party to, signs a letter of assent, and complies with such agreement or agreements, should it be designated the successful bidder; and

(2) It is understood that this is a self-contained, stand-alone agreement, and that by virtue of having become bound to such agreement or agreements, neither the project contractor nor the subcontractors are obligated to sign any other local, area, or national agreement. [2022 c 267 § 7.]

Findings—Intent—2022 c 267: See note following RCW 82.08.986.

RCW 82.08.990 Exemptions—Import or export commerce. The tax imposed by RCW 82.08.020 does not apply to sales of tangible personal property if the sale is exempt from business and occupation tax under RCW 82.04.610. [2007 c 477 § 3.]

Intent—Purpose—2007 c 477: See note following RCW 82.04.610.

RCW 82.08.993 Exemptions—Fuel cell electric vehicles—Report to the legislature. (Expires June 30, 2029.) (1)(a) Subject to the limitations in this subsection, beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, 50 percent of the tax levied by RCW 82.08.020 does not apply to sales or leases of new electric passenger cars, light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(b)(i) By the end of the fifth working day of each month, until the expiration of the exemption as described in (c) of this subsection, the department must determine the cumulative number of vehicles that have claimed the exemption as described in (a) of this subsection.

(ii) The department of licensing must collect and provide, upon request, information in a form or manner as required by the department to determine the number of exemptions that have been claimed.

(c) The exemption under this section expires after the last day of the calendar month immediately following the month the department determines that the total number of vehicles exempt under (a) of this subsection reaches 650. All leased vehicles that qualified for the exemption before the expiration of the exemption must continue to receive the exemption as described under (a) of this subsection on lease payments due through the remainder of the lease.

(d) The department must provide notification on its website monthly on the amount of exemptions that have been applied for, the amount issued, and the amount remaining before the limit described in (c) of this subsection has been reached, and, once that limit has been reached, the date the exemption expires pursuant to (c) of this subsection.

(e) A person may not claim the exemption under this subsection if the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

(f) The per vehicle exemption must be based on the sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles.

(2)(a) Subject to the limitations in this subsection (2), beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, the entire tax levied by RCW 82.08.020 does not apply to the sale or lease of used electric passenger cars, light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(b) The per vehicle exemption must be based on the sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles. However, the maximum value amount eligible for the exemption under (a) of this subsection is the lesser of either \$16,000 or the fair market value of the vehicle.

(c) A person may not claim the exemption under this subsection (2) if the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

(3)(a) For qualifying vehicles sold by a person licensed to do business in the state of Washington, the seller must keep records necessary for the department to verify eligibility under this section. The seller reporting the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; sales price for purchased vehicles and fairmarket value at the inception of the lease for leased vehicles; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(b) For vehicles purchased from (i) a seller that is not licensed to do business in the state of Washington, or (ii) a private party, the buyer must keep records necessary for the department to verify eligibility under this section. The buyer claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; date of sale; sales price; and the total amount qualifying for the incentive claimed for each vehicle. This information must be provided in a form and manner prescribed by the department.

(4)(a) The department of licensing must maintain and publish a list of all vehicle models qualifying for the tax exemptions under

this section and RCW 82.12.817 until the expiration of this section, and is authorized to issue final rulings on vehicle model qualification for these criteria.

(b) The department of revenue retains responsibility for determining whether a vehicle meets the applicable qualifying criterion under subsections (1) and (2) of this section.

(5) By the last day of August 2023, and annually thereafter until this section expires, based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of fuel cell electric vehicles that qualified for the exemptions under this section and RCW 82.12.817 by month of purchase or lease start and vehicle make and model; the dollar amount of all state retail sales and use taxes exempted on or after the qualification period start date, under this section and RCW 82.12.817; and estimates of the future costs of leased vehicles that qualified for the exemptions under this section and RCW 82.12.817.

(6) (a) Sales of vehicles delivered to the buyer after the expiration of this section, or leased vehicles for which the lease agreement was signed after the expiration of this section, do not qualify for the exemptions under this section.

(b) All leased vehicles that qualified for the exemption under this section before the expiration of this section must continue to receive the exemption on any lease payments due through the remainder of the lease.

(7) For the purposes of this section:

(a) "Fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(b) "Fuel cell" means a technology that uses an electrochemical reaction to generate electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c) "New vehicle" has the same meaning as "new motor vehicle" in RCW 46.04.358.

(d) "Selling price" and "sales price" have the same meaning as in RCW 82.08.010.

(e) "Used vehicle" has the same meaning as in RCW 46.04.660.

(8) This section expires June 30, 2029. [2022 c 182 § 303; 2021 c 171 § 2.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Tax preference performance statement—2021 c 171: "This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3, chapter 171, Laws of 2021. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2) (a).

(2) It is the legislature's specific public policy objective to increase the use of hydrogen fuel cell electric vehicles in Washington as another way of promoting clean alternative fuel vehicle adoption in the state. It is the legislature's intent to establish an eight-year

pilot tax incentive program for fuel cell electric vehicles by creating a temporary partial sales and use tax exemption on fuel cell electric vehicles in order to reduce the price charged to customers and to evaluate the feasibility of wider adoption of the use of fuel cell electric technology in transportation.

(3) Since the tax incentive created in sections 2 and 3 of this act is limited to eight years, the joint legislative audit and review committee must, within the committee's appropriations, evaluate the effectiveness of this tax incentive on the number of hydrogen fuel cell vehicles titled in the state by November 1, 2028.

(4) The department of licensing and the department of revenue must, within the departments' respective appropriations, provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary." [2021 c 171 § 1.]

Effective date—2021 c 171: "Sections 1 through 3 of this act take effect July 1, 2022." [2021 c 171 § 4.]

RCW 82.08.995 Exemptions—Certain limited purpose public corporations, commissions, and authorities. (1) The tax imposed by RCW 82.08.020 does not apply to sales of personal property and services provided by a public corporation, commission, or authority created under RCW 35.21.660 or 35.21.730 to an eligible entity.

(2) For purposes of this section, "eligible entity" means a limited liability company, a limited partnership, or a single asset entity, described in RCW 82.04.615. [2009 c 535 § 514; 2007 c 381 § 2.]

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

RCW 82.08.996 Exemptions—Battery-powered electric marine propulsion systems—Qualifying vessels. (Expires July 1, 2030.) (1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of new battery-powered electric marine propulsion systems with continuous power greater than fifteen kilowatts;

(b) The sale of new vessels equipped with propulsion systems that qualify under (a) of this subsection;

(c) (i) The sale of batteries and battery packs used to exclusively power electric marine propulsion systems or hybrid electric marine propulsion systems, if such systems operate with a continuous power greater than fifteen kilowatts;

(ii) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving batteries or battery packs that qualify under (c) (i) of this subsection;

(d) (i) The sale of new shoreside batteries purchased and installed for the purpose of reducing grid demand when charging electric and hybrid vessels;

(ii) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving shoreside batteries;

(iii) The sale of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving shoreside batteries infrastructure; and

(iv) The sale of tangible personal property that will become a component of shoreside batteries infrastructure.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) For the purposes of this section:

(a) "Battery" means a secondary battery or storage cell that can be charged, discharged into a load, and recharged many times; and includes one of several different combinations of electrode materials and electrolytes;

(b) "Battery pack" means a group of any number of secondary or rechargeable batteries within a casing and used as a power source for battery-powered electric marine propulsion systems or hybrid electric marine propulsion systems;

(c) "Battery-powered electric marine propulsion system" means a fully electric outboard or inboard motor used by vessels, the sole source of propulsive power of which is the energy stored in the battery packs. The term includes required accessories, such as throttles, displays, and battery packs;

(d) "Hybrid electric marine propulsion system" means a propulsion system that includes two or more sources of propulsion in one design, one of which must be electric;

(e) "Shoreside batteries" means batteries installed at a dock or similar location to provide an electric charge to a vessel powered by an electric marine propulsion system;

(f) "Shoreside batteries infrastructure" means the shoreside battery bank, charging apparatus, and emergency services generator; and

(g) "Vessel" includes every watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(4) This section expires July 1, 2030. [2020 c 341 § 1; 2019 c 287 § 21.]

Effective date—2020 c 341: "This act takes effect July 1, 2020." [2020 c 341 § 4.]

Tax preference performance statement—2020 c 341 §§ 1 and 2; 2019 c 287 §§ 21 and 22: "This section is the tax preference performance statement for the tax preferences contained in sections 1 and 2, chapter 341, Laws of 2020 and sections 21 and 22, chapter 287, Laws of 2019. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preferences as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of electric vessels in Washington. It is the legislature's intent to establish a sales and use tax exemption on certain electric vessels in order to reduce the price charged to

customers for electric vessels and to create and retain jobs associated with electric marine battery manufacturing and the construction of new electric ferries in Washington.

(3) To measure the effectiveness of the tax preferences in sections 1 and 2, chapter 341, Laws of 2020 and sections 21 and 22, chapter 287, Laws of 2019 in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of electric vessels titled in the state.

(4) If a review finds that jobs in Washington associated with electric marine battery manufacturing and the construction of new electric ferries using electric battery power are created and retained, then the legislature intends to extend the expiration date of these tax preferences.

(5) In order to obtain the data necessary to perform the reviews in subsections (3) and (4) of this section, the department of licensing and the department of revenue must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary." [2020 c 341 § 3; 2019 c 287 § 20.]

Effective date—2019 c 287: See note following RCW 82.29A.125.

Findings—Intent—2019 c 287: See note following RCW 28B.30.903.

RCW 82.08.997 Exemptions—Temporary medical housing. (1) The tax levied by RCW 82.08.020 does not apply to sales of temporary medical housing by a health or social welfare organization, if the following conditions are met:

(a) The temporary medical housing is provided only:

(i) While the patient is receiving medical treatment at: (A) A hospital required to be licensed under RCW 70.41.090; or (B) an outpatient clinic associated with such hospital; or

(ii) During any period of recuperation or observation immediately following medical treatment received by a patient at a facility in (a) (i) (A) or (B) of this subsection; and

(b) The health or social welfare organization does not furnish lodging or related services to the general public.

(2) For the purposes of this section, the following definitions apply:

(a) "Health or social welfare organization" has the meaning provided in RCW 82.04.431; and

(b) "Temporary medical housing" means transient lodging and related services provided to a patient or the patient's immediate family, legal guardian, or other persons necessary to the patient's mental or physical well-being. [2008 c 137 § 2.]

Effective date—2008 c 137: "This act takes effect July 1, 2008." [2008 c 137 § 7.]

RCW 82.08.998 Exemptions—Weatherization of a residence. (1) The tax imposed by RCW 82.08.020 does not apply to sales of tangible personal property used in the weatherization of a residence under the

weatherization assistance program under chapter 70A.35 RCW. The exemption only applies to tangible personal property that becomes a component of the residence.

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

(3) "Residence" and "weatherization" have the meanings provided in RCW 70A.35.020. [2020 c 20 § 1476; 2008 c 92 § 1.]

RCW 82.08.999 Exemptions—Joint municipal utility services authorities. The tax levied by RCW 82.08.020 shall not apply to any sales, or transfers made, to or from a joint municipal utility services authority formed under chapter 39.106 RCW and any of its members. [2011 c 258 § 12.]

Short title—Purpose—Intent—2011 c 258: See RCW 39.106.010.

RCW 82.08.9994 Exemptions—Bottled water—Prescription use. (1) Subject to the conditions in this section, the tax levied by RCW 82.08.020 does not apply to sales of bottled water dispensed or to be dispensed to patients pursuant to a prescription for use in the cure, mitigation, treatment, or prevention of disease or medical condition.

(2) For purposes of this section, "prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

(3) Except for sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, sellers must collect tax on sales subject to this exemption. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the taxes directly from the department in a form and manner prescribed by the department. The department must deny any refund application if the amount of the refund requested is less than twenty-five dollars. No refund may be made for taxes paid more than four years after the end of the calendar year in which the tax was paid to the seller.

(4) With respect to sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, buyers claiming the exemption provided in this section must provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files. [2017 3rd sp.s. c 28 § 103.]

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

RCW 82.08.99941 Exemptions—Bottled water—Primary water source unsafe. (1)(a) Subject to the conditions in this section, the tax levied by RCW 82.08.020 does not apply to sales of bottled water to persons whose primary source of drinking water is unsafe.

(b) For purposes of this subsection and RCW 82.12.99941, a person's primary source of drinking water is unsafe if:

(i) The public water system providing the drinking water has issued a public notification that the drinking water may pose a health risk, and the notification is still in effect on the date that the bottled water was purchased;

(ii) Test results on the person's drinking water, which are no more than twelve months old, from a laboratory certified to perform drinking water testing show that the person's drinking water does not meet safe drinking water standards applicable to public water systems; or

(iii) The person otherwise establishes, to the department's satisfaction, that the person's drinking water does not meet safe drinking water standards applicable to public water systems.

(2) Except for sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, sellers must collect tax on sales subject to this exemption. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the taxes directly from the department in a form and manner prescribed by the department. The department must deny any refund application if the amount of the refund requested is less than twenty-five dollars. No refund may be made for taxes paid more than four years after the end of the calendar year in which the tax was paid to the seller.

(3) (a) With respect to sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, buyers claiming the exemption provided in this section must provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(b) The department may waive the requirement for an exemption certificate in the event of disaster or similar circumstance. [2017 3rd sp.s. c 28 § 105.]

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

RCW 82.08.9995 Exemptions—Restaurant employee meals. (1) The tax levied by RCW 82.08.020 does not apply to a meal provided without specific charge by a restaurant to its employees.

(2) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Meal" means one or more items of prepared food or beverages other than alcoholic beverages. For the purposes of this subsection, "alcoholic beverage" and "prepared food" have the same meanings as provided in RCW 82.08.0293.

(b) "Restaurant" means any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption, but excluding grocery stores, mini-markets, and convenience stores. Restaurant includes, but is not limited to, lunch counters, diners, coffee shops, espresso shops or bars, concession stands or counters, delicatessens, and cafeterias. It also includes space and

accommodations where food and beverages are sold to the public for immediate consumption that are located within hotels, motels, lodges, boarding houses, bed and breakfast facilities, hospitals, office buildings, movie theaters, and schools, colleges, or universities, if a separate charge is made for such food or beverages. Mobile sales units that sell food or beverages for immediate consumption within a place, the entrance to which is subject to an admission charge, are "restaurants." So too are public and private carriers, such as trains and vessels, that sell food or beverages for immediate consumption if a separate charge for the food and/or beverages is made. A restaurant is open to the public for purposes of this section if members of the public can be served as guests. "Restaurant" does not include businesses making sales through vending machines or through mobile sales units such as catering trucks or sidewalk vendors of food or beverage items. [2015 c 86 § 303; 2011 c 55 § 2.]

Effective date—2011 c 55: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 c 55 § 4.]

RCW 82.08.9996 Exemptions—Vessel deconstruction. (1) The tax levied by RCW 82.08.020 does not apply to sales of vessel deconstruction performed at:

(a) A qualified vessel deconstruction facility; or

(b) An area over water that has been permitted under section 402 of the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

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

(a) (i) "Vessel deconstruction" means permanently dismantling a vessel, including: Abatement and removal of hazardous materials; the removal of mechanical, hydraulic, or electronic components or other vessel machinery and equipment; and either the cutting apart or disposal, or both, of vessel infrastructure. For the purposes of this subsection, "hazardous materials" includes fuel, lead, asbestos, polychlorinated biphenyls, and oils.

(ii) "Vessel deconstruction" does not include vessel modification or repair.

(b) "Qualified vessel deconstruction facility" means structures, including floating structures, that are permitted under section 402 of the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel deconstruction.

(3) Sellers making tax-exempt sales under this section must obtain from the purchaser an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. [2014 c 195 § 301.]

Reviser's note: Section 301, chapter 195, Laws of 2014 expires January 1, 2025, pursuant to the automatic expiration date established in RCW 82.32.805(1) (a).

Effective date—2014 c 195 §§ 301 and 302: "Sections 301 and 302 of this act take effect October 1, 2014." [2014 c 195 § 304.]

Findings—Intent—2014 c 195: See notes following RCW 79.100.170 and 79.100.180.

RCW 82.08.9997 Exemptions—Retail sale of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products covered by cannabis agreement between state and tribe. The taxes imposed by this chapter do not apply to the retail sale of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products covered by an agreement entered into under RCW 43.06.490. "Cannabis," "useable cannabis," "cannabis concentrates," and "cannabis-infused products" have the same meaning as defined in RCW 69.50.101. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this section. [2022 c 56 § 6; 2022 c 16 § 154; 2015 c 207 § 4.]

Reviser's note: This section was amended by 2022 c 16 § 154 and by 2022 c 56 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

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

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

RCW 82.08.9998 Exemptions—Cannabis concentrates, useable cannabis, or cannabis-infused products—Products containing low amounts of THC. (1) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of cannabis concentrates, useable cannabis, or cannabis-infused products, identified by the department of health in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant cannabis product, by cannabis retailers with medical cannabis endorsements to qualifying patients or designated providers who have been issued recognition cards;

(b) Sales of products containing THC with a THC concentration of 0.3 percent or less to qualifying patients or designated providers who have been issued recognition cards by cannabis retailers with medical cannabis endorsements;

(c) Sales of cannabis concentrates, useable cannabis, or cannabis-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, by cannabis retailers with medical cannabis endorsements, to any person;

(d) Sales of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by health care professionals under RCW 69.51A.280;

(e) (i) Cannabis, cannabis concentrates, useable cannabis, cannabis-infused products, or products containing THC with a THC concentration of 0.3 percent or less produced by a cooperative and provided to its members; and

(ii) Any nonmonetary resources and labor contributed by an individual member of the cooperative in which the individual is a

member. However, nothing in this subsection (1)(e) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.08.020 on any purchase of property or services contributed to the cooperative.

(2) Each seller making exempt sales under subsection (1) of this section must maintain information establishing eligibility for the exemption in the form and manner required by the department.

(3) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

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

(a) "Cooperative" means a cooperative authorized by and operating in compliance with RCW 69.51A.250.

(b) "Cannabis retailer with a medical cannabis endorsement" means a cannabis retailer permitted under RCW 69.50.375 to sell cannabis for medical use to qualifying patients and designated providers.

(c) "Products containing THC with a THC concentration of 0.3 percent or less" means all products containing THC with a THC concentration not exceeding 0.3 percent and that, when used as intended, are inhalable, ingestible, or absorbable.

(d) "THC concentration," "cannabis," "cannabis concentrates," "useable cannabis," "cannabis retailer," and "cannabis-infused products" have the same meanings as provided in RCW 69.50.101 and the terms "qualifying patients," "designated providers," and "recognition card" have the same meaning as provided in RCW 69.51A.010. [2022 c 16 § 155; 2019 c 393 § 4; 2015 2nd sp.s. c 4 § 207.]

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

Effective date—2019 c 393: See note following RCW 69.50.345.

Intent—2019 c 393: See note following RCW 69.50.346.

Applicability—2015 2nd sp.s. c 4 §§ 207 and 208: "The provisions of RCW 82.32.805 and 82.32.808(8) do not apply to the exemptions in RCW 82.08.9998 and 82.12.9998." [2015 2nd sp.s. c 4 § 209.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

RCW 82.08.9999 Exemptions—Vehicles using clean alternative fuels and electric vehicles. (Expires August 1, 2028.) (1) Beginning August 1, 2019, with sales made or lease agreements signed on or after the qualification period start date:

(a) The tax levied by RCW 82.08.020 does not apply as provided in (b) of this subsection to sales or leases of new or used passenger cars, light duty trucks, and medium duty passenger vehicles that:

(i) Are exclusively powered by a clean alternative fuel; or

(ii) Use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least 30 miles using only battery power; and

(iii) (A) Have a vehicle selling price plus trade-in property of like kind for purchased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed \$45,000; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed \$30,000; or

(B) Have a fair market value at the inception of the lease for leased vehicles that:

(I) For a vehicle that is a new vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed \$45,000; or

(II) For a vehicle that is a used vehicle at the time of the purchase date or the date the lease agreement was signed, does not exceed \$30,000;

(b) (i) The exemption in this section is applicable for up to the amounts specified in (b) (ii) or (iii) of this subsection of:

(A) The total amount of the vehicle's selling price, for sales made; or

(B) The total lease payments made plus any additional selling price of the leased vehicle if the original lessee purchases the leased vehicle before the qualification period end date, for lease agreements signed.

(ii) Based on the purchase date or the date the lease agreement was signed of the vehicle if the vehicle is a new vehicle at the time of the purchase date or the date the lease agreement was signed:

(A) From the qualification period start date until July 31, 2021, the maximum amount eligible under (b) (i) of this subsection is \$25,000;

(B) From August 1, 2021, until July 31, 2023, the maximum amount eligible under (b) (i) of this subsection is \$20,000;

(C) From August 1, 2023, until July 31, 2025, the maximum amount eligible under (b) (i) of this subsection is \$15,000.

(iii) If the vehicle is a used vehicle at the time of the purchase date or the date the lease agreement was signed, the maximum amount eligible under (b) (i) of this subsection is \$16,000.

(2) The seller must keep records necessary for the department to verify eligibility under this section. A person claiming the exemption must also submit itemized information to the department for all vehicles for which an exemption is claimed that must include the following: Vehicle make; vehicle model; model year; whether the vehicle has been sold or leased; date of sale or start date of lease; length of lease; sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles; and the total amount qualifying for the incentive claimed for each vehicle, in addition to the future monthly amount to be claimed for each leased vehicle. This information must be provided in a form and manner prescribed by the department.

(3) (a) The department of licensing must maintain and publish a list of all vehicle models qualifying for the tax exemptions under this section or RCW 82.12.9999 until the expiration date of this section, and is authorized to issue final rulings on vehicle model qualification for these criteria. A seller is not responsible for repayment of the tax exemption under this section and RCW 82.12.9999 for a vehicle if the department of licensing's published list of qualifying vehicle models on the purchase date or the date the lease agreement was signed includes the vehicle model and the department of licensing subsequently removes the vehicle model from the published

list, and, if applicable, the vehicle meets the qualifying criterion under subsection (1) (a) (iii) (B) of this section and RCW 82.12.9999(1) (a) (iii) (B).

(b) The department of revenue retains responsibility for determining whether a vehicle meets the applicable qualifying criterion under subsection (1) (a) (iii) (B) of this section and RCW 82.12.9999(1) (a) (iii) (B).

(4) By the last day of October 2019, and every six months thereafter until this section expires, based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of vehicles that qualified for the exemption under this section and RCW 82.12.9999 by month of purchase or lease start and vehicle make and model; the dollar amount of all state retail sales and use taxes exempted on or after the qualification period start date, under this section and RCW 82.12.9999; and estimates of the future costs of leased vehicles that qualified for the exemption under this section and RCW 82.12.9999.

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

(a) "Clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California Code of Regulations, effective January 1, 2019, and the rules of the Washington state department of ecology.

(b) "Fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(c) "New vehicle" has the same meaning as "new motor vehicle" in RCW 46.04.358.

(d) "Qualification period end date" means August 1, 2025.

(e) "Qualification period start date" means August 1, 2019.

(f) "Used vehicle" has the same meaning as in RCW 46.04.660.

(6) (a) Sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed after the qualification period end date do not qualify for the exemption under this section.

(b) All leased vehicles that qualified for the exemption under this section before the qualification period end date must continue to receive the exemption as described under subsection (1) (b) of this section on any lease payments due through the remainder of the lease before August 1, 2028.

(7) This section expires August 1, 2028.

(8) This section is supported by the revenues generated in RCW 46.17.324, and therefore takes effect only if RCW 46.17.324 is enacted by June 30, 2019. [2022 c 182 § 305; 2021 c 145 § 13; 2019 c 287 § 9.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Tax preference performance statement—2019 c 287 §§ 8-14: See note following RCW 82.04.4496.

Findings—Intent—2019 c 287: See note following RCW 28B.30.903.

RCW 82.08.99991 Tax preferences—Expiration dates. See RCW 82.32.805 for the expiration date of new tax preferences for the tax imposed under this chapter. [2013 2nd sp.s. c 13 § 1705.]

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