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SENATE BILL 5574

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Weinstein and Regala; by request of Department of Revenue  
Read first time 01/24/2007. Referred to Committee on Ways & Means.

1            AN ACT Relating to the printing and publishing business and  
2 occupation tax classification; amending RCW 82.04.250, 82.04.250,  
3 82.04.270, 82.04.120, 82.04.240, 82.04.240, 82.04.460, 82.04.280,  
4 82.04.280, 82.08.0253, 82.08.806, 82.08.820, 82.08.820, 82.12.020, and  
5 35.102.150; amending 2006 c 300 s 12 (uncodified); reenacting and  
6 amending RCW 82.04.050 and 34.05.328; adding new sections to chapter  
7 82.04 RCW; repealing RCW 82.04.214; providing effective dates;  
8 providing a contingent effective date; providing expiration dates; and  
9 providing a contingent expiration date.

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

11            **Sec. 1.** RCW 82.04.050 and 2005 c 515 s 2 and 2005 c 514 s 101 are  
12 each reenacted and amended to read as follows:

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

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

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

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

16 (d) Purchases for the purpose of consuming the property purchased  
17 in producing ferrosilicon which is subsequently used in producing  
18 magnesium for sale, if the primary purpose of such property is to  
19 create a chemical reaction directly through contact with an ingredient  
20 of ferrosilicon; (~~((+7+))~~) or

21 (e) Purchases for the purpose of providing the property to  
22 consumers as part of competitive telephone service, as defined in RCW  
23 82.04.065. The term shall include every sale of tangible personal  
24 property which is used or consumed or to be used or consumed in the  
25 performance of any activity classified as a "sale at retail" or "retail  
26 sale" even though such property is resold or utilized as provided in  
27 (a), (b), (c), (d), or (e) of this subsection following such use. The  
28 term also means every sale of tangible personal property to persons  
29 engaged in any business which is taxable under RCW 82.04.280 (~~((+2+))~~)  
30 (1) and (~~((+7+))~~) (6), 82.04.290, and 82.04.2908; or

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

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

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

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

16 (c) The charge for labor and services rendered in respect to  
17 constructing, repairing, or improving any structure upon, above, or  
18 under any real property owned by an owner who conveys the property by  
19 title, possession, or any other means to the person performing such  
20 construction, repair, or improvement for the purpose of performing such  
21 construction, repair, or improvement and the property is then  
22 reconveyed by title, possession, or any other means to the original  
23 owner;

24 (d) The sale of or charge made for labor and services rendered in  
25 respect to the cleaning, fumigating, razing or moving of existing  
26 buildings or structures, but shall not include the charge made for  
27 janitorial services; and for purposes of this section the term  
28 "janitorial services" shall mean those cleaning and caretaking services  
29 ordinarily performed by commercial janitor service businesses  
30 including, but not limited to, wall and window washing, floor cleaning  
31 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
32 The term "janitorial services" does not include painting, papering,  
33 repairing, furnace or septic tank cleaning, snow removal or  
34 sandblasting;

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

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

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

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

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

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

31 (c) Credit bureau services;

32 (d) Automobile parking and storage garage services;

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

1 (f) Service charges associated with tickets to professional  
2 sporting events; and

3 (g) The following personal services: Physical fitness services,  
4 tanning salon services, tattoo parlor services, steam bath services,  
5 turkish bath services, escort services, and dating services.

6 (4)(a) The term shall also include:

7 (i) The renting or leasing of tangible personal property to  
8 consumers; and

9 (ii) Providing tangible personal property along with an operator  
10 for a fixed or indeterminate period of time. A consideration of this  
11 is that the operator is necessary for the tangible personal property to  
12 perform as designed. For the purpose of this subsection (4)(a)(ii), an  
13 operator must do more than maintain, inspect, or set up the tangible  
14 personal property.

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

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

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

25 (7) The term shall also include the sale of or charge made for an  
26 extended warranty to a consumer. For purposes of this subsection,  
27 "extended warranty" means an agreement for a specified duration to  
28 perform the replacement or repair of tangible personal property at no  
29 additional charge or a reduced charge for tangible personal property,  
30 labor, or both, or to provide indemnification for the replacement or  
31 repair of tangible personal property, based on the occurrence of  
32 specified events. The term "extended warranty" does not include an  
33 agreement, otherwise meeting the definition of extended warranty in  
34 this subsection, if no separate charge is made for the agreement and  
35 the value of the agreement is included in the sales price of the  
36 tangible personal property covered by the agreement. For purposes of  
37 this subsection, "sales price" has the same meaning as in RCW  
38 82.08.010.

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

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

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

1 radioactive waste and other byproducts of weapons production and  
2 nuclear research and development.

3 (11) The term shall not include the sale of or charge made for  
4 labor, services, or tangible personal property pursuant to agreements  
5 providing maintenance services for bus, rail, or rail fixed guideway  
6 equipment when a regional transit authority is the recipient of the  
7 labor, services, or tangible personal property, and a transit agency,  
8 as defined in RCW 81.104.015, performs the labor or services.

9 **Sec. 2.** RCW 82.04.250 and 2003 2nd sp.s. c 1 s 2 are each amended  
10 to read as follows:

11 (1) Upon every person (~~((except persons taxable under RCW 82.04.260~~  
12 ~~(5) or (13), 82.04.272, or subsection (2) of this section))~~) engaging  
13 within this state in the business of making sales at retail, including  
14 any person making sales at retail of tangible personal property that it  
15 has printed or published, and except persons explicitly taxable under  
16 other provisions of this chapter on the business of making sales at  
17 retail, as to such persons, the amount of tax with respect to such  
18 business shall be equal to the gross proceeds of sales of the business,  
19 multiplied by the rate of 0.471 percent.

20 (2) Upon every person engaging within this state in the business of  
21 making sales at retail that are exempt from the tax imposed under  
22 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
23 82.08.0263, except persons taxable under RCW 82.04.260(~~((+13+))~~) (11), as  
24 to such persons, the amount of tax with respect to such business shall  
25 be equal to the gross proceeds of sales of the business, multiplied by  
26 the rate of 0.484 percent.

27 **Sec. 3.** RCW 82.04.250 and 2006 c 177 s 5 are each amended to read  
28 as follows:

29 (1) Upon every person engaging within this state in the business of  
30 making sales at retail, including any person making sales at retail of  
31 tangible personal property that it has printed or published, and except  
32 persons explicitly taxable (~~((as retailers))~~) under other provisions of  
33 this chapter on the business of making sales at retail, as to such  
34 persons, the amount of tax with respect to such business shall be equal  
35 to the gross proceeds of sales of the business, multiplied by the rate  
36 of 0.471 percent.

1 (2) Upon every person engaging within this state in the business of  
2 making sales at retail that are exempt from the tax imposed under  
3 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
4 82.08.0263, except persons taxable under RCW 82.04.260(11) or  
5 subsection (3) of this section, as to such persons, the amount of tax  
6 with respect to such business shall be equal to the gross proceeds of  
7 sales of the business, multiplied by the rate of 0.484 percent.

8 (3) Upon every person engaging within this state in the business of  
9 making sales at retail that are exempt from the tax imposed under  
10 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
11 82.08.0263, that is classified by the federal aviation administration  
12 as a FAR part 145 certificated repair station with airframe and  
13 instrument ratings and limited ratings for nondestructive testing,  
14 radio, Class 3 Accessory, and specialized services, as to such persons,  
15 the amount of tax with respect to such business shall be equal to the  
16 gross proceeds of sales of the business, multiplied by the rate of  
17 .2904 percent.

18 **Sec. 4.** RCW 82.04.270 and 2004 c 24 s 5 are each amended to read  
19 as follows:

20 Upon every person engaging within this state in the business of  
21 making sales at wholesale, including any person making sales at  
22 wholesale of tangible personal property that it has printed or  
23 published, and except persons explicitly taxable (~~(as wholesalers)~~)  
24 under other provisions of this chapter on the business of making sales  
25 at wholesale; as to such persons the amount of tax with respect to such  
26 business shall be equal to the gross proceeds of sales of such business  
27 multiplied by the rate of 0.484 percent.

28 **Sec. 5.** RCW 82.04.120 and 2003 c 168 s 604 are each amended to  
29 read as follows:

30 "To manufacture" embraces all activities of a commercial or  
31 industrial nature wherein labor or skill is applied, by hand or  
32 machinery, to materials so that as a result thereof a new, different or  
33 useful substance or article of tangible personal property is produced  
34 for sale or commercial or industrial use, and shall include: (1) The  
35 production or fabrication of special made or custom made articles; (2)  
36 the production or fabrication of dental appliances, devices,



1 restorations, substitutes, or other dental laboratory products by a  
2 dental laboratory or dental technician; (3) cutting, delimiting, and  
3 measuring of felled, cut, or taken trees; (~~and~~) (4) crushing and/or  
4 blending of rock, sand, stone, gravel, or ore; and (5) printing.

5 "To manufacture" shall not include: Conditioning of seed for use  
6 in planting; cubing hay or alfalfa; activities which consist of  
7 cutting, grading, or ice glazing seafood which has been cooked, frozen,  
8 or canned outside this state; the growing, harvesting, or producing of  
9 agricultural products; packing of agricultural products, including  
10 sorting, washing, rinsing, grading, waxing, treating with fungicide,  
11 packaging, chilling, or placing in controlled atmospheric storage; or  
12 the production of computer software if the computer software is  
13 delivered from the seller to the purchaser by means other than tangible  
14 storage media, including the delivery by use of a tangible storage  
15 media where the tangible storage media is not physically transferred to  
16 the purchaser.

17 **Sec. 6.** RCW 82.04.240 and 2004 c 24 s 4 are each amended to read  
18 as follows:

19 Upon every person engaging within this state in business as a  
20 manufacturer, including any person that manufactures by printing, and  
21 except persons explicitly taxable ((as—manufacturers)) under other  
22 provisions of this chapter on engaging in business as a manufacturer;  
23 as to such persons the amount of the tax with respect to such business  
24 shall be equal to the value of the products, including byproducts,  
25 manufactured, multiplied by the rate of 0.484 percent.

26 The measure of the tax is the value of the products, including  
27 byproducts, so manufactured regardless of the place of sale or the fact  
28 that deliveries may be made to points outside the state.

29 **Sec. 7.** RCW 82.04.240 and 2003 c 149 s 3 are each amended to read  
30 as follows:

31 (1) Upon every person engaging within this state in business as a  
32 manufacturer, including any person that manufactures by printing, and  
33 except persons explicitly taxable ((as—manufacturers)) under other  
34 provisions of this chapter on engaging in business as a manufacturer;  
35 as to such persons the amount of the tax with respect to such business

1 shall be equal to the value of the products, including byproducts,  
2 manufactured, multiplied by the rate of 0.484 percent.

3 (2) Upon every person engaging within this state in the business of  
4 manufacturing semiconductor materials, as to such persons the amount of  
5 tax with respect to such business shall, in the case of manufacturers,  
6 be equal to the value of the product manufactured, or, in the case of  
7 processors for hire, be equal to the gross income of the business,  
8 multiplied by the rate of 0.275 percent. For the purposes of this  
9 subsection "semiconductor materials" means silicon crystals, silicon  
10 ingots, raw polished semiconductor wafers, compound semiconductors,  
11 integrated circuits, and microchips. This subsection (2) expires  
12 twelve years after the effective date of (~~this act~~) chapter 149, Laws  
13 of 2003.

14 (3) The measure of the tax is the value of the products, including  
15 byproducts, so manufactured regardless of the place of sale or the fact  
16 that deliveries may be made to points outside the state.

17 NEW SECTION. Sec. 8. A new section is added to chapter 82.04 RCW  
18 to read as follows:

19 (1) Upon every person engaging within this state in the business of  
20 publishing newspapers or periodicals; as to such persons, the amount of  
21 tax with respect to such business shall be equal to the gross  
22 publishing income multiplied by the rate of 0.484 percent.

23 (2) Eligible publishers are entitled to a credit against the tax  
24 imposed under this section. The amount of the credit is equal to the  
25 amount of manufacturing tax imposed on the person for manufacturing the  
26 printed material in respect to which tax is imposed under this section  
27 on the publishing of such material. The amount of the credit shall not  
28 exceed the amount of tax otherwise due under this section with respect  
29 to the publishing of the printed material.

30 (3)(a) As used in this section:

31 (i) "Eligible publisher" means any person: (A) Taxable under this  
32 section on the activity of publishing a newspaper or periodical; (B)  
33 that is also subject to a manufacturing tax on the activity of printing  
34 such newspaper or periodical; and (C) that does not make retail or  
35 wholesale sales of such newspaper or periodical.

36 (ii) "Gross publishing income" means the gross income derived from

1 publishing activities other than selling printed materials, and  
2 includes items such as advertising.

3 (iii) "Manufacturing tax" means a gross receipts tax imposed on the  
4 act or privilege of engaging in business as a manufacturer, including  
5 the tax imposed under RCW 82.04.240 and similar gross receipts taxes  
6 imposed by other states.

7 (iv) "Newspaper" includes only a printed publication issued  
8 regularly at stated intervals at least twice a month and printed on  
9 newsprint in tabloid or broadsheet format folded loosely together  
10 without stapling, glue, or any other binding of any kind, including any  
11 supplement or special edition of the publication.

12 (v) "Periodical" includes only a printed publication, including a  
13 magazine, issued regularly at stated intervals at least once every  
14 three months, including any supplement or special edition of the  
15 publication. "Periodical" does not include a newspaper.

16 (vi) "Supplement" means a printed publication distributed within  
17 the circulation area of the publication to which it supplements, either  
18 with or apart from such publication. To qualify as a supplement, a  
19 publication distributed apart from the publication to which it  
20 supplements must be clearly and consistently identified as a supplement  
21 of such other publication.

22 (b) "Periodical" and "newspaper" do not include advertising  
23 publications or materials. For purposes of this subsection (3)(b),  
24 "advertising publications or materials" includes telephone or other  
25 directories; catalogs; advertising leaflets, fliers, or circulars; real  
26 estate guides; coupons; order forms; classified ad publications; and  
27 similar publications or materials. "Advertising publications or  
28 materials" does not include supplements.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW  
30 to read as follows:

31 Gross income derived from publishing, distributing, or displaying  
32 advertising publications or materials excluded from the definitions of  
33 "newspaper" and "periodical" in section 8(3)(b) of this act, other than  
34 income from the sale of tangible personal property, and including  
35 income from the sale of advertising, is taxable under RCW 82.04.290(2).

1       **Sec. 10.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to read  
2 as follows:

3       (1) Except as otherwise provided in this section, any person  
4 ((rendering services)) engaging in business activities in this state  
5 taxable under RCW 82.04.290 or 82.04.2908, and ((maintaining places of  
6 business both within and without this state which contribute to the  
7 rendition of such services)) engaging in business activities outside  
8 this state that contribute more than incidentally to such in-state  
9 activities, shall, for the purpose of computing tax liability under RCW  
10 82.04.290 or 82.04.2908, apportion to this state that portion of the  
11 person's gross income ((which is)) derived from ((services rendered))  
12 business activities performed within this state. Where such  
13 apportionment cannot be accurately made by separate accounting methods,  
14 the taxpayer shall apportion to this state that proportion of the  
15 taxpayer's total income which the cost of doing business within the  
16 state bears to the total cost of doing business both within and without  
17 the state.

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

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

1       (4) Persons doing business both within and without the state who  
2 receive gross publishing income taxable under section 8 of this act  
3 shall apportion or allocate income taxable under section 8 of this act  
4 to this state as provided by the department by rule. In adopting any  
5 rule for the apportionment of gross publishing income, the department  
6 shall be guided by uniform rules for apportionment or allocation  
7 developed by the states. The department shall also give due  
8 consideration to the complexity of the apportionment or allocation  
9 methods, and in particular, their effect on small businesses.

10       (5) Activities performed outside the state contribute more than  
11 incidentally to in-state activities only to the extent that such  
12 out-of-state activities would subject the taxpayer to the tax in this  
13 chapter if performed in this state.

14       **Sec. 11.** RCW 34.05.328 and 2003 c 165 s 2 and 2003 c 39 s 13 are  
15 each reenacted and amended to read as follows:

16       (1) Before adopting a rule described in subsection (5) of this  
17 section, an agency shall:

18       (a) Clearly state in detail the general goals and specific  
19 objectives of the statute that the rule implements;

20       (b) Determine that the rule is needed to achieve the general goals  
21 and specific objectives stated under (a) of this subsection, and  
22 analyze alternatives to rule making and the consequences of not  
23 adopting the rule;

24       (c) Provide notification in the notice of proposed rule making  
25 under RCW 34.05.320 that a preliminary cost-benefit analysis is  
26 available. The preliminary cost-benefit analysis must fulfill the  
27 requirements of the cost-benefit analysis under (d) of this subsection.  
28 If the agency files a supplemental notice under RCW 34.05.340, the  
29 supplemental notice shall include notification that a revised  
30 preliminary cost-benefit analysis is available. A final cost-benefit  
31 analysis shall be available when the rule is adopted under RCW  
32 34.05.360;

33       (d) Determine that the probable benefits of the rule are greater  
34 than its probable costs, taking into account both the qualitative and  
35 quantitative benefits and costs and the specific directives of the  
36 statute being implemented;

1 (e) Determine, after considering alternative versions of the rule  
2 and the analysis required under (b), (c), and (d) of this subsection,  
3 that the rule being adopted is the least burdensome alternative for  
4 those required to comply with it that will achieve the general goals  
5 and specific objectives stated under (a) of this subsection;

6 (f) Determine that the rule does not require those to whom it  
7 applies to take an action that violates requirements of another federal  
8 or state law;

9 (g) Determine that the rule does not impose more stringent  
10 performance requirements on private entities than on public entities  
11 unless required to do so by federal or state law;

12 (h) Determine if the rule differs from any federal regulation or  
13 statute applicable to the same activity or subject matter and, if so,  
14 determine that the difference is justified by the following:

15 (i) A state statute that explicitly allows the agency to differ  
16 from federal standards; or

17 (ii) Substantial evidence that the difference is necessary to  
18 achieve the general goals and specific objectives stated under (a) of  
19 this subsection; and

20 (i) Coordinate the rule, to the maximum extent practicable, with  
21 other federal, state, and local laws applicable to the same activity or  
22 subject matter.

23 (2) In making its determinations pursuant to subsection (1)(b)  
24 through (h) of this section, the agency shall place in the rule-making  
25 file documentation of sufficient quantity and quality so as to persuade  
26 a reasonable person that the determinations are justified.

27 (3) Before adopting rules described in subsection (5) of this  
28 section, an agency shall place in the rule-making file a rule  
29 implementation plan for rules filed under each adopting order. The  
30 plan shall describe how the agency intends to:

31 (a) Implement and enforce the rule, including a description of the  
32 resources the agency intends to use;

33 (b) Inform and educate affected persons about the rule;

34 (c) Promote and assist voluntary compliance; and

35 (d) Evaluate whether the rule achieves the purpose for which it was  
36 adopted, including, to the maximum extent practicable, the use of  
37 interim milestones to assess progress and the use of objectively  
38 measurable outcomes.

1 (4) After adopting a rule described in subsection (5) of this  
2 section regulating the same activity or subject matter as another  
3 provision of federal or state law, an agency shall do all of the  
4 following:

5 (a) Provide to the business assistance center a list citing by  
6 reference the other federal and state laws that regulate the same  
7 activity or subject matter;

8 (b) Coordinate implementation and enforcement of the rule with the  
9 other federal and state entities regulating the same activity or  
10 subject matter by making every effort to do one or more of the  
11 following:

12 (i) Deferring to the other entity;

13 (ii) Designating a lead agency; or

14 (iii) Entering into an agreement with the other entities specifying  
15 how the agency and entities will coordinate implementation and  
16 enforcement.

17 If the agency is unable to comply with this subsection (4)(b), the  
18 agency shall report to the legislature pursuant to (c) of this  
19 subsection;

20 (c) Report to the joint administrative rules review committee:

21 (i) The existence of any overlap or duplication of other federal or  
22 state laws, any differences from federal law, and any known overlap,  
23 duplication, or conflict with local laws; and

24 (ii) Make recommendations for any legislation that may be necessary  
25 to eliminate or mitigate any adverse effects of such overlap,  
26 duplication, or difference.

27 (5)(a) Except as provided in (b) of this subsection, this section  
28 applies to:

29 (i) Significant legislative rules of the departments of ecology,  
30 labor and industries, health, revenue, social and health services, and  
31 natural resources, the employment security department, the forest  
32 practices board, the office of the insurance commissioner, and to the  
33 legislative rules of the department of fish and wildlife implementing  
34 chapter 77.55 RCW; and

35 (ii) Any rule of any agency, if this section is voluntarily made  
36 applicable to the rule by the agency, or is made applicable to the rule  
37 by a majority vote of the joint administrative rules review committee

1 within forty-five days of receiving the notice of proposed rule making  
2 under RCW 34.05.320.

3 (b) This section does not apply to:

4 (i) Emergency rules adopted under RCW 34.05.350;

5 (ii) Rules relating only to internal governmental operations that  
6 are not subject to violation by a nongovernment party;

7 (iii) Rules adopting or incorporating by reference without material  
8 change federal statutes or regulations, Washington state statutes,  
9 rules of other Washington state agencies, shoreline master programs  
10 other than those programs governing shorelines of statewide  
11 significance, or, as referenced by Washington state law, national  
12 consensus codes that generally establish industry standards, if the  
13 material adopted or incorporated regulates the same subject matter and  
14 conduct as the adopting or incorporating rule;

15 (iv) Rules that only correct typographical errors, make address or  
16 name changes, or clarify language of a rule without changing its  
17 effect;

18 (v) Rules the content of which is explicitly and specifically  
19 dictated by statute;

20 (vi) Rules that set or adjust fees or rates pursuant to legislative  
21 standards; (~~(e)~~)

22 (vii) Rules of the department of social and health services  
23 relating only to client medical or financial eligibility and rules  
24 concerning liability for care of dependents; or

25 (viii) Rules of the department of revenue relating only to the  
26 apportionment of gross publishing income as provided in RCW  
27 82.04.460(4).

28 (c) For purposes of this subsection:

29 (i) A "procedural rule" is a rule that adopts, amends, or repeals  
30 (A) any procedure, practice, or requirement relating to any agency  
31 hearings; (B) any filing or related process requirement for making  
32 application to an agency for a license or permit; or (C) any policy  
33 statement pertaining to the consistent internal operations of an  
34 agency.

35 (ii) An "interpretive rule" is a rule, the violation of which does  
36 not subject a person to a penalty or sanction, that sets forth the  
37 agency's interpretation of statutory provisions it administers.



1 (iii) A "significant legislative rule" is a rule other than a  
2 procedural or interpretive rule that (A) adopts substantive provisions  
3 of law pursuant to delegated legislative authority, the violation of  
4 which subjects a violator of such rule to a penalty or sanction; (B)  
5 establishes, alters, or revokes any qualification or standard for the  
6 issuance, suspension, or revocation of a license or permit; or (C)  
7 adopts a new, or makes significant amendments to, a policy or  
8 regulatory program.

9 (d) In the notice of proposed rule making under RCW 34.05.320, an  
10 agency shall state whether this section applies to the proposed rule  
11 pursuant to (a)(i) of this subsection, or if the agency will apply this  
12 section voluntarily.

13 (6) By January 31, 1996, and by January 31st of each even-numbered  
14 year thereafter, the office of financial management, after consulting  
15 with state agencies, counties, and cities, and business, labor, and  
16 environmental organizations, shall report to the governor and the  
17 legislature regarding the effects of this section on the regulatory  
18 system in this state. The report shall document:

19 (a) The rules proposed to which this section applied and to the  
20 extent possible, how compliance with this section affected the  
21 substance of the rule, if any, that the agency ultimately adopted;

22 (b) The costs incurred by state agencies in complying with this  
23 section;

24 (c) Any legal action maintained based upon the alleged failure of  
25 any agency to comply with this section, the costs to the state of such  
26 action, and the result;

27 (d) The extent to which this section has adversely affected the  
28 capacity of agencies to fulfill their legislatively prescribed mission;

29 (e) The extent to which this section has improved the acceptability  
30 of state rules to those regulated; and

31 (f) Any other information considered by the office of financial  
32 management to be useful in evaluating the effect of this section.

33 **Sec. 12.** RCW 82.04.280 and 2006 c 300 s 6 are each amended to read  
34 as follows:

35 Upon every person engaging within this state in the business of:

36 (1) (~~Printing, and of publishing newspapers, periodicals, or~~  
37 ~~magazines;~~ (2)) Building, repairing or improving any street, place,

1 road, highway, easement, right of way, mass public transportation  
2 terminal or parking facility, bridge, tunnel, or trestle which is owned  
3 by a municipal corporation or political subdivision of the state or by  
4 the United States and which is used or to be used, primarily for foot  
5 or vehicular traffic including mass transportation vehicles of any kind  
6 and including any readjustment, reconstruction or relocation of the  
7 facilities of any public, private or cooperatively owned utility or  
8 railroad in the course of such building, repairing or improving, the  
9 cost of which readjustment, reconstruction, or relocation, is the  
10 responsibility of the public authority whose street, place, road,  
11 highway, easement, right of way, mass public transportation terminal or  
12 parking facility, bridge, tunnel, or trestle is being built, repaired  
13 or improved; (~~(3)~~) (2) extracting for hire or processing for hire,  
14 except persons taxable as extractors for hire or processors for hire  
15 under another section of this chapter; (~~(4)~~) (3) operating a cold  
16 storage warehouse or storage warehouse, but not including the rental of  
17 cold storage lockers; (~~(5)~~) (4) representing and performing services  
18 for fire or casualty insurance companies as an independent resident  
19 managing general agent licensed under the provisions of RCW 48.05.310;  
20 (~~(6)~~) (5) radio and television broadcasting, excluding network,  
21 national and regional advertising computed as a standard deduction  
22 based on the national average thereof as annually reported by the  
23 Federal Communications Commission, or in lieu thereof by itemization by  
24 the individual broadcasting station, and excluding that portion of  
25 revenue represented by the out-of-state audience computed as a ratio to  
26 the station's total audience as measured by the 100 micro-volt signal  
27 strength and delivery by wire, if any; (~~(7)~~) (6) engaging in  
28 activities which bring a person within the definition of consumer  
29 contained in RCW 82.04.190(6); as to such persons, the amount of tax on  
30 such business shall be equal to the gross income of the business  
31 multiplied by the rate of 0.484 percent.

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

37 As used in this section, "storage warehouse" means a building or  
38 structure, or any part thereof, in which goods, wares, or merchandise

1 are received for storage for compensation, except field warehouses,  
2 fruit warehouses, fruit packing plants, warehouses licensed under  
3 chapter 22.09 RCW, public garages storing automobiles, railroad freight  
4 sheds, docks and wharves, and "self-storage" or "mini storage"  
5 facilities whereby customers have direct access to individual storage  
6 areas by separate entrance. "Storage warehouse" does not include a  
7 building or structure, or that part of such building or structure, in  
8 which an activity taxable under RCW 82.04.272 is conducted.

9 ~~((As used in this section, "periodical or magazine" means a printed  
10 publication, other than a newspaper, issued regularly at stated  
11 intervals at least once every three months, including any supplement or  
12 special edition of the publication.))~~

13 **Sec. 13.** RCW 82.04.280 and 2006 c 300 s 7 are each amended to read  
14 as follows:

15 Upon every person engaging within this state in the business of:  
16 ~~(1) ((Printing, and of publishing newspapers, periodicals, or  
17 magazines; (2))~~ Building, repairing or improving any street, place,  
18 road, highway, easement, right of way, mass public transportation  
19 terminal or parking facility, bridge, tunnel, or trestle which is owned  
20 by a municipal corporation or political subdivision of the state or by  
21 the United States and which is used or to be used, primarily for foot  
22 or vehicular traffic including mass transportation vehicles of any kind  
23 and including any readjustment, reconstruction or relocation of the  
24 facilities of any public, private or cooperatively owned utility or  
25 railroad in the course of such building, repairing or improving, the  
26 cost of which readjustment, reconstruction, or relocation, is the  
27 responsibility of the public authority whose street, place, road,  
28 highway, easement, right of way, mass public transportation terminal or  
29 parking facility, bridge, tunnel, or trestle is being built, repaired  
30 or improved; ~~((+3))~~ (2) extracting for hire or processing for hire,  
31 except persons taxable as extractors for hire or processors for hire  
32 under another section of this chapter; ~~((+4))~~ (3) operating a cold  
33 storage warehouse or storage warehouse, but not including the rental of  
34 cold storage lockers; ~~((+5))~~ (4) representing and performing services  
35 for fire or casualty insurance companies as an independent resident  
36 managing general agent licensed under the provisions of RCW 48.05.310;  
37 ~~((+6))~~ (5) radio and television broadcasting, excluding network,

1 national and regional advertising computed as a standard deduction  
2 based on the national average thereof as annually reported by the  
3 Federal Communications Commission, or in lieu thereof by itemization by  
4 the individual broadcasting station, and excluding that portion of  
5 revenue represented by the out-of-state audience computed as a ratio to  
6 the station's total audience as measured by the 100 micro-volt signal  
7 strength and delivery by wire, if any; ~~((+7))~~ (6) engaging in  
8 activities which bring a person within the definition of consumer  
9 contained in RCW 82.04.190(6); as to such persons, the amount of tax on  
10 such business shall be equal to the gross income of the business  
11 multiplied by the rate of 0.484 percent.

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

17 As used in this section, "storage warehouse" means a building or  
18 structure, or any part thereof, in which goods, wares, or merchandise  
19 are received for storage for compensation, except field warehouses,  
20 fruit warehouses, fruit packing plants, warehouses licensed under  
21 chapter 22.09 RCW, public garages storing automobiles, railroad freight  
22 sheds, docks and wharves, and "self-storage" or "mini storage"  
23 facilities whereby customers have direct access to individual storage  
24 areas by separate entrance. "Storage warehouse" does not include a  
25 building or structure, or that part of such building or structure, in  
26 which an activity taxable under RCW 82.04.272 is conducted.

27 ~~((As used in this section, "periodical or magazine" means a printed  
28 publication, other than a newspaper, issued regularly at stated  
29 intervals at least once every three months, including any supplement or  
30 special edition of the publication.))~~

31 **Sec. 14.** RCW 82.08.0253 and 1980 c 37 s 21 are each amended to  
32 read as follows:

33 The tax levied by RCW 82.08.020 shall not apply to the distribution  
34 and newsstand sale of newspapers. For the purposes of this section,  
35 "newspaper" has the same meaning as in section 8 of this act.

1       **Sec. 15.** RCW 82.08.806 and 2004 c 8 s 2 are each amended to read  
2 as follows:

3       (1) The tax levied by RCW 82.08.020 shall not apply to sales, to a  
4 printer or publisher, of computer equipment, including repair parts and  
5 replacement parts for such equipment, when the computer equipment is  
6 used primarily in the printing or publishing of any printed material,  
7 or to sales of or charges made for labor and services rendered in  
8 respect to installing, repairing, cleaning, altering, or improving the  
9 computer equipment. This exemption applies only to computer equipment  
10 not otherwise exempt under RCW 82.08.02565.

11       (2) A person taking the exemption under this section must keep  
12 records necessary for the department to verify eligibility under this  
13 section. This exemption is available only when the purchaser provides  
14 the seller with an exemption certificate in a form and manner  
15 prescribed by the department. The seller shall retain a copy of the  
16 certificate for the seller's files.

17       (3) The definitions in this subsection (3) apply throughout this  
18 section, unless the context clearly requires otherwise.

19       (a) "Computer" has the same meaning as in RCW 82.04.215.

20       (b) "Computer equipment" means a computer and the associated  
21 physical components that constitute a computer system, including  
22 monitors, keyboards, printers, modems, scanners, pointing devices, and  
23 other computer peripheral equipment, cables, servers, and routers.  
24 "Computer equipment" also includes digital cameras and computer  
25 software.

26       (c) "Computer software" has the same meaning as in RCW 82.04.215.

27       (d) "Primarily" means greater than fifty percent as measured by  
28 time.

29       (e) "Printer or publisher" means a person, as defined in RCW  
30 82.04.030, who is subject to tax under: (i) RCW ((82.04.280(1)))  
31 82.04.240 on the activity of manufacturing by printing; or (ii) section  
32 8 of this act on the activity of publishing a newspaper or periodical  
33 as those terms are defined in that section.

34       (4) "Computer equipment" does not include computer equipment that  
35 is used primarily for administrative purposes including but not limited  
36 to payroll processing, accounting, customer service, telemarketing, and  
37 collection. If computer equipment is used simultaneously for  
38 administrative and nonadministrative purposes, the administrative use

1 shall be disregarded during the period of simultaneous use for purposes  
2 of determining whether the computer equipment is used primarily for  
3 administrative purposes.

4 **Sec. 16.** RCW 82.08.820 and 2006 c 354 s 11 are each amended to  
5 read as follows:

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

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

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

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

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

20 (b) "Cold storage warehouse" has the meaning provided in RCW  
21 82.74.010;

22 (c) "Construction" means the actual construction of a warehouse or  
23 grain elevator that did not exist before the construction began.  
24 "Construction" includes expansion if the expansion adds at least  
25 twenty-five thousand square feet of additional space to an existing  
26 cold storage warehouse, at least two hundred thousand square feet of  
27 additional space to an existing warehouse other than a cold storage  
28 warehouse, or additional storage capacity of at least one million  
29 bushels to an existing grain elevator. "Construction" does not include  
30 renovation, remodeling, or repair;

31 (d) "Department" means the department of revenue;

32 (e) "Distribution center" means a warehouse that is used  
33 exclusively by a retailer solely for the storage and distribution of  
34 finished goods to retail outlets of the retailer. "Distribution  
35 center" does not include a warehouse at which retail sales occur;

36 (f) "Finished goods" means tangible personal property intended for  
37 sale by a retailer or wholesaler. "Finished goods" does not include

1 agricultural products stored by wholesalers, third-party warehouses, or  
2 retailers if the storage takes place on the land of the person who  
3 produced the agricultural product. "Finished goods" does not include  
4 logs, minerals, petroleum, gas, or other extracted products stored as  
5 raw materials or in bulk;

6 (g) "Grain elevator" means a structure used for storage and  
7 handling of grain in bulk;

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

29 (i) "Person" has the meaning given in RCW 82.04.030;

30 (j) "Retailer" means a person who makes "sales at retail" as  
31 defined in chapter 82.04 RCW of tangible personal property;

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

1 (l) "Third-party warehouser" means a person taxable under RCW  
2 82.04.280(~~(+4)~~) (3);

3 (m) "Warehouse" means an enclosed building or structure in which  
4 finished goods are stored. A warehouse building or structure may have  
5 more than one storage room and more than one floor. Office space,  
6 lunchrooms, restrooms, and other space within the warehouse and  
7 necessary for the operation of the warehouse are considered part of the  
8 warehouse as are loading docks and other such space attached to the  
9 building and used for handling of finished goods. Landscaping and  
10 parking lots are not considered part of the warehouse. A storage yard  
11 is not a warehouse, nor is a building in which manufacturing takes  
12 place; and

13 (n) "Wholesaler" means a person who makes "sales at wholesale" as  
14 defined in chapter 82.04 RCW of tangible personal property, but  
15 "wholesaler" does not include a person who makes sales exempt under RCW  
16 82.04.330.

17 (3)(a) A person claiming an exemption from state tax in the form of  
18 a remittance under this section must pay the tax imposed by RCW  
19 82.08.020. The buyer may then apply to the department for remittance  
20 of all or part of the tax paid under RCW 82.08.020. For grain  
21 elevators with bushel capacity of one million but less than two  
22 million, the remittance is equal to fifty percent of the amount of tax  
23 paid. For warehouses with square footage of two hundred thousand or  
24 more, other than cold storage warehouses, and for grain elevators with  
25 bushel capacity of two million or more, the remittance is equal to one  
26 hundred percent of the amount of tax paid for qualifying construction,  
27 materials, service, and labor, and fifty percent of the amount of tax  
28 paid for qualifying material-handling equipment and racking equipment,  
29 and labor and services rendered in respect to installing, repairing,  
30 cleaning, altering, or improving the equipment. For cold storage  
31 warehouses with square footage of twenty-five thousand or more, the  
32 remittance is equal to one hundred percent of the amount of tax paid  
33 for qualifying construction, materials, service, and labor, and one  
34 hundred percent of the amount of tax paid for qualifying material-  
35 handling equipment and racking equipment, and labor and services  
36 rendered in respect to installing, repairing, cleaning, altering, or  
37 improving the equipment.



1 (b) The department shall determine eligibility under this section  
2 based on information provided by the buyer and through audit and other  
3 administrative records. The buyer shall on a quarterly basis submit an  
4 information sheet, in a form and manner as required by the department  
5 by rule, specifying the amount of exempted tax claimed and the  
6 qualifying purchases or acquisitions for which the exemption is  
7 claimed. The buyer shall retain, in adequate detail to enable the  
8 department to determine whether the equipment or construction meets the  
9 criteria under this section: Invoices; proof of tax paid; documents  
10 describing the material-handling equipment and racking equipment;  
11 location and size of warehouses and grain elevators; and construction  
12 invoices and documents.

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

16 (4) Warehouses, grain elevators, and material-handling equipment  
17 and racking equipment for which an exemption, credit, or deferral has  
18 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or  
19 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
20 under this section. Warehouses and grain elevators upon which  
21 construction was initiated before May 20, 1997, are not eligible for a  
22 remittance under this section.

23 (5) The lessor or owner of a warehouse or grain elevator is not  
24 eligible for a remittance under this section unless the underlying  
25 ownership of the warehouse or grain elevator and the material-handling  
26 equipment and racking equipment vests exclusively in the same person,  
27 or unless the lessor by written contract agrees to pass the economic  
28 benefit of the remittance to the lessee in the form of reduced rent  
29 payments.

30 **Sec. 17.** RCW 82.08.820 and 2006 c 354 s 12 are each amended to  
31 read as follows:

32 (1) Wholesalers or third-party warehouse owners who own or operate  
33 warehouses or grain elevators and retailers who own or operate  
34 distribution centers, and who have paid the tax levied by RCW 82.08.020  
35 on:

36 (a) Material-handling and racking equipment, and labor and services

1 rendered in respect to installing, repairing, cleaning, altering, or  
2 improving the equipment; or

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

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

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

10 (b) "Construction" means the actual construction of a warehouse or  
11 grain elevator that did not exist before the construction began.  
12 "Construction" includes expansion if the expansion adds at least two  
13 hundred thousand square feet of additional space to an existing  
14 warehouse or additional storage capacity of at least one million  
15 bushels to an existing grain elevator. "Construction" does not include  
16 renovation, remodeling, or repair;

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

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

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

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

31 (g) "Material-handling equipment and racking equipment" means  
32 equipment in a warehouse or grain elevator that is primarily used to  
33 handle, store, organize, convey, package, or repackage finished goods.  
34 The term includes tangible personal property with a useful life of one  
35 year or more that becomes an ingredient or component of the equipment,  
36 including repair and replacement parts. The term does not include  
37 equipment in offices, lunchrooms, restrooms, and other like space,  
38 within a warehouse or grain elevator, or equipment used for

1 nonwarehousing purposes. "Material-handling equipment" includes but is  
2 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
3 place units, cranes, hoists, mechanical arms, and robots; mechanized  
4 systems, including containers that are an integral part of the system,  
5 whose purpose is to lift or move tangible personal property; and  
6 automated handling, storage, and retrieval systems, including computers  
7 that control them, whose purpose is to lift or move tangible personal  
8 property; and forklifts and other off-the-road vehicles that are used  
9 to lift or move tangible personal property and that cannot be operated  
10 legally on roads and streets. "Racking equipment" includes, but is not  
11 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
12 pallets, and other containers and storage devices that form a necessary  
13 part of the storage system;

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

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

17 (j) "Square footage" means the product of the two horizontal  
18 dimensions of each floor of a specific warehouse. The entire footprint  
19 of the warehouse shall be measured in calculating the square footage,  
20 including space that juts out from the building profile such as loading  
21 docks. "Square footage" does not mean the aggregate of the square  
22 footage of more than one warehouse at a location or the aggregate of  
23 the square footage of warehouses at more than one location;

24 (k) "Third-party warehouser" means a person taxable under RCW  
25 82.04.280(~~(+4)~~) (3);

26 (l) "Warehouse" means an enclosed building or structure in which  
27 finished goods are stored. A warehouse building or structure may have  
28 more than one storage room and more than one floor. Office space,  
29 lunchrooms, restrooms, and other space within the warehouse and  
30 necessary for the operation of the warehouse are considered part of the  
31 warehouse as are loading docks and other such space attached to the  
32 building and used for handling of finished goods. Landscaping and  
33 parking lots are not considered part of the warehouse. A storage yard  
34 is not a warehouse, nor is a building in which manufacturing takes  
35 place; and

36 (m) "Wholesaler" means a person who makes "sales at wholesale" as  
37 defined in chapter 82.04 RCW of tangible personal property, but

1 "wholesaler" does not include a person who makes sales exempt under RCW  
2 82.04.330.

3 (3)(a) A person claiming an exemption from state tax in the form of  
4 a remittance under this section must pay the tax imposed by RCW  
5 82.08.020. The buyer may then apply to the department for remittance  
6 of all or part of the tax paid under RCW 82.08.020. For grain  
7 elevators with bushel capacity of one million but less than two  
8 million, the remittance is equal to fifty percent of the amount of tax  
9 paid. For warehouses with square footage of two hundred thousand or  
10 more and for grain elevators with bushel capacity of two million or  
11 more, the remittance is equal to one hundred percent of the amount of  
12 tax paid for qualifying construction, materials, service, and labor,  
13 and fifty percent of the amount of tax paid for qualifying material-  
14 handling equipment and racking equipment, and labor and services  
15 rendered in respect to installing, repairing, cleaning, altering, or  
16 improving the equipment.

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

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

32 (4) Warehouses, grain elevators, and material-handling equipment  
33 and racking equipment for which an exemption, credit, or deferral has  
34 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or  
35 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
36 under this section. Warehouses and grain elevators upon which  
37 construction was initiated before May 20, 1997, are not eligible for a  
38 remittance under this section.

1 (5) The lessor or owner of a warehouse or grain elevator is not  
2 eligible for a remittance under this section unless the underlying  
3 ownership of the warehouse or grain elevator and the material-handling  
4 equipment and racking equipment vests exclusively in the same person,  
5 or unless the lessor by written contract agrees to pass the economic  
6 benefit of the remittance to the lessee in the form of reduced rent  
7 payments.

8 **Sec. 18.** RCW 82.12.020 and 2005 c 514 s 105 are each amended to  
9 read as follows:

10 (1) There is hereby levied and there shall be collected from every  
11 person in this state a tax or excise for the privilege of using within  
12 this state as a consumer: (a) Any article of tangible personal  
13 property purchased at retail, or acquired by lease, gift, repossession,  
14 or bailment, or extracted or produced or manufactured by the person so  
15 using the same, or otherwise furnished to a person engaged in any  
16 business taxable under RCW 82.04.280 (~~((+2+))~~) (1) or (~~((+7+))~~) (6); (b)  
17 any prewritten computer software, regardless of the method of delivery,  
18 but excluding prewritten computer software that is either provided free  
19 of charge or is provided for temporary use in viewing information, or  
20 both; or (c) any extended warranty.

21 (2) This tax shall apply to the use of every extended warranty,  
22 service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a), and  
23 the use of every article of tangible personal property, including  
24 property acquired at a casual or isolated sale, and including  
25 byproducts used by the manufacturer thereof, except as hereinafter  
26 provided, irrespective of whether the article or similar articles are  
27 manufactured or are available for purchase within this state.

28 (3) The provisions of this chapter do not apply in respect to the  
29 use of any article of tangible personal property, extended warranty, or  
30 service taxable under RCW 82.04.050 (2)(a) or (3)(a), purchased at  
31 retail or acquired by lease, gift, or bailment if the sale to, or the  
32 use by, the present user or his bailor or donor has already been  
33 subjected to the tax under chapter 82.08 RCW or this chapter and the  
34 tax has been paid by the present user or by his bailor or donor.

35 (4) Except as provided in this section, payment by one purchaser or  
36 user of tangible personal property, extended warranty, or service of  
37 the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect

1 of exempting any other purchaser or user of the same property, extended  
2 warranty, or service from the taxes imposed by such chapters. If the  
3 sale to, or the use by, the present user or his or her bailor or donor  
4 has already been subjected to the tax under chapter 82.08 RCW or this  
5 chapter and the tax has been paid by the present user or by his or her  
6 bailor or donor; or in respect to the use of property acquired by  
7 bailment and the tax has once been paid based on reasonable rental as  
8 determined by RCW 82.12.060 measured by the value of the article at  
9 time of first use multiplied by the tax rate imposed by chapter 82.08  
10 RCW or this chapter as of the time of first use; or in respect to the  
11 use of any article of tangible personal property acquired by bailment,  
12 if the property was acquired by a previous bailee from the same bailor  
13 for use in the same general activity and the original bailment was  
14 prior to June 9, 1961, the tax imposed by this chapter does not apply.

15 (5) The tax shall be levied and collected in an amount equal to the  
16 value of the article used, value of the extended warranty used, or  
17 value of the service used by the taxpayer multiplied by the rates in  
18 effect for the retail sales tax under RCW 82.08.020, except in the case  
19 of a seller required to collect use tax from the purchaser, the tax  
20 shall be collected in an amount equal to the purchase price multiplied  
21 by the rate in effect for the retail sales tax under RCW 82.08.020.

22 **Sec. 19.** 2006 c 300 s 12 (uncodified) is amended to read as  
23 follows:

24 (1)(a) This act (~~and~~), section 7, chapter 300, Laws of 2006, and  
25 sections 7 and 13, chapter ..., Laws of 2007 (sections 7 and 13 of this  
26 act) are contingent upon the siting and commercial operation of a  
27 significant semiconductor microchip fabrication facility in the state  
28 of Washington.

29 (b) For the purposes of this section:

30 (i) "Commercial operation" means the same as "commencement of  
31 commercial production" as used in RCW 82.08.965.

32 (ii) "Semiconductor microchip fabrication" means "manufacturing  
33 semiconductor microchips" as defined in RCW 82.04.426.

34 (iii) "Significant" means the combined investment of new buildings  
35 and new machinery and equipment in the buildings, at the commencement  
36 of commercial production, will be at least one billion dollars.

1 (2) This act takes effect the first day of the month in which a  
2 contract for the construction of a significant semiconductor  
3 fabrication facility is signed, as determined by the director of the  
4 department of revenue.

5 (3)(a) The department of revenue shall provide notice of the  
6 effective date of this act to affected taxpayers, the legislature, and  
7 others as deemed appropriate by the department.

8 (b) If, after making a determination that a contract has been  
9 signed and this act is effective, the department discovers that  
10 commencement of commercial production did not take place within three  
11 years of the date the contract was signed, the department shall make a  
12 determination that this act is no longer effective, and all taxes that  
13 would have been otherwise due shall be deemed deferred taxes and are  
14 immediately assessed and payable from any person reporting tax under  
15 RCW 82.04.240(2) or claiming an exemption or credit under section 2 or  
16 5 through 10 of this act. The department is not authorized to make a  
17 second determination regarding the effective date of this act.

18 NEW SECTION. **Sec. 20.** RCW 82.04.214 ("Newspaper") and 1994 c 22  
19 s 1 & 1993 sp.s. c 25 s 304 are each repealed.

20 **Sec. 21.** RCW 35.102.150 and 2006 c 272 s 1 are each amended to  
21 read as follows:

22 Notwithstanding RCW 35.102.130, a city that imposes a business and  
23 occupation tax shall allocate a person's gross income from the  
24 activities of printing, and of publishing newspapers(~~(7)~~) or  
25 periodicals(~~(7 or magazines)~~), to the principal place in this state  
26 from which the taxpayer's business is directed or managed. As used in  
27 this section, the activities of printing, and of publishing  
28 newspapers(~~(7)~~) or periodicals(~~(7 or magazines)~~), have the same  
29 meanings as attributed to those terms in RCW (~~(82.04.280(1))~~) 82.04.240  
30 and section 8 of this act by the department of revenue.

31 NEW SECTION. **Sec. 22.** (1) Except as otherwise provided in this  
32 section, this act takes effect January 1, 2008.

33 (2) Section 2 of this act takes effect July 1, 2011.

34 (3) Sections 7 and 13 of this act take effect if the contingency in  
35 section 19 of this act occurs.

1 (4) Section 17 of this act takes effect July 1, 2012.

2 NEW SECTION. **Sec. 23.** Sections 6 and 12 of this act expire if the  
3 contingency in section 19 of this act occurs.

4 NEW SECTION. **Sec. 24.** Section 16 of this act expires July 1,  
5 2012.

6 NEW SECTION. **Sec. 25.** Section 3 of this act expires July 1, 2011.

7 NEW SECTION. **Sec. 26.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

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