

Chapter 82.32 RCW
GENERAL ADMINISTRATIVE PROVISIONS

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Debts owed state: RCW 43.17.240.

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RCW 82.32.010 Application of chapter stated. The provisions of this chapter apply with respect to the taxes imposed under chapters 82.04 through 82.14 RCW, under chapter 82.14B RCW, under chapters 82.16 through 82.29A RCW of this title, under chapter 84.33 RCW, and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter, or section. [2010 1st sp.s. c 19 s 13; 1998 c 304 s 12; 1984 c 204 s 26; 1983 c 3 s 219; 1981 c 148 s 12; 1961 c 15 s 82.32.010. Prior: 1935 c 180 s 185; RRS s 8370-185.]

Effective dates—2010 1st sp.s. c 19: See note following RCW 82.14B.010.

Findings—Effective dates—1998 c 304: See notes following RCW 82.14B.020.

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Purpose—Severability—Effective dates—1981 c 148: See notes following RCW 84.33.130.

RCW 82.32.020 Definitions. For the purposes of this chapter:

(1) The meaning attributed in chapters 82.01 through 82.27 RCW to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "gross income," "taxpayer," "retail sale," "seller," "buyer," "purchaser," "extended warranty," and "value of products" apply equally to the provisions of this chapter.

(2) Unless the context clearly requires otherwise, the term "tax" includes any monetary exaction, regardless of its label, that the department is responsible for collecting, but not including interest, penalties, the surcharge imposed in RCW 40.14.027, or fees incurred by the department and recouped from taxpayers.

(3) Whenever "property" or "personal property" is 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.

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

(a) "Agreement" means the streamlined sales and use tax agreement.

(b) "Associate member" means a petitioning state that is found to be in compliance with the agreement and changes to its laws, rules, or other authorities necessary to bring it into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008. The petitioning states, by majority vote, may also grant associate member status to a petitioning state that does not receive an affirmative vote of three-fourths of the petitioning states upon a finding that the state has achieved substantial compliance with the terms of the agreement as a whole, but not necessarily each required provision, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008.

(c) "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(d) "Certified service provider" means an agent certified under the agreement to perform all of the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(e) (i) "Member state" means a state that:

(A) Has petitioned for membership in the agreement and submitted a certificate of compliance; and

(B) Before the effective date of the agreement, has been found to be in compliance with the requirements of the agreement by an affirmative vote of three-fourths of the other petitioning states; or

(C) After the effective date of the agreement, has been found to be in compliance with the agreement by a three-fourths vote of the entire governing board of the agreement.

(ii) Membership by reason of (e) (i) (A) and (B) of this subsection is effective on the first day of a calendar quarter at least sixty days after at least ten states comprising at least twenty percent of

the total population, as determined by the 2000 federal census, of all states imposing a state sales tax have petitioned for membership and have either been found in compliance with the agreement or have been found to be an associate member under section 704 of the agreement.

(iii) Membership by reason of (e)(i)(A) and (C) of this subsection is effective on the state's proposed date of entry or the first day of the calendar quarter after its petition is approved by the governing board, whichever is later, and is at least sixty days after its petition is approved.

(f) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions as outlined in the contract between the streamlined sales tax governing board and the certified service provider, other than the seller's obligation to remit tax on its own purchases.

(g) "Model 2 seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(h) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection (4)(h), a seller includes an affiliated group of sellers using the same proprietary system.

(i) "Source" means the location in which the sale or use of tangible personal property, a digital good or digital code, an extended warranty, or a digital automated service or other service, subject to tax under chapter 82.08, 82.12, 82.14, or 82.14B RCW, is deemed to occur. [2019 c 8 s 402; 2015 c 86 s 309; 2009 c 535 s 1111; 2007 c 6 s 101; 2003 1st sp.s. c 13 s 16; 1983 c 3 s 220; 1961 c 15 s 82.32.020. Prior: 1935 c 180 s 186; RRS s 8370-186.]

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

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

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

Part headings not law—2007 c 6: "Part headings used in this act are not any part of the law." [2007 c 6 s 1702.]

Savings—2007 c 6: "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." [2007 c 6 s 1703.]

Effective date—2007 c 6: "Sections 101 through 105, 201, 202, 401, 501 through 503, 601, 701 through 703, 801, 802, 901 through 905, 1001, 1002, 1004, 1005, 1007 through 1013, 1015 through 1017, 1019 through 1024, 1101 through 1104, 1201 through 1203, 1302, 1401 through

1403, 1501, 1502, and 1601 of this act take effect July 1, 2008."
[2007 c 6 s 1704.]

Severability—2007 c 6: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 6 s 1708.]

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

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

RCW 82.32.023 Definition of product for agreement purposes. For purposes of construing those provisions of the streamlined sales and use tax agreement that have been incorporated into this title, and unless the context requires otherwise, the terms "product" and "products" refer to tangible personal property, digital goods, digital codes, digital automated services, other services, extended warranties, and anything else that can be sold or used. [2009 c 535 s 1112; 2007 c 6 s 104.]

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.

RCW 82.32.026 Registration—Seller's agent—Streamlined sales and use tax agreement. (1) A seller, by written agreement, may appoint a person to represent the seller as its agent. The seller's agent has authority to register the seller with the department under RCW 82.32.030. An agent may also be a certified service provider, with authority to perform all the seller's sales and use tax functions, except that the seller remains responsible for remitting the tax on its own purchases.

(2) The seller or its agent must provide the department with a copy of the written agreement upon request. [2007 c 6 s 201.]

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 82.32.030 Registration certificates—Threshold levels—Central registration system. (1) Except as provided in subsections (2) and (3) of this section, if any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, he or she must, under such rules as the department prescribes, apply for and obtain from the department a registration certificate. Such registration certificate is personal and

nontransferable and is valid as long as the taxpayer continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public is required. Each certificate must be numbered and must show the name, residence, and place and character of business of the taxpayer and such other information as the department of revenue deems necessary and must be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the department the existing certificate, and a new certificate will be issued for the new place of business. No person required to be registered under this section may engage in any business taxable hereunder without first being so registered. The department, by rule, may provide for the issuance of certificates of registration to temporary places of business.

(2) Unless the person is a dealer as defined in RCW 9.41.010, registration under this section is not required if the following conditions are met:

(a) A person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twelve thousand dollars per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twelve thousand dollars per year;

(c) The person is not required to collect or pay to the department of revenue any other tax or fee that the department is authorized to collect; and

(d) The person is not otherwise required to obtain a license subject to the business license application procedure provided in chapter 19.02 RCW.

(3) All persons who agree to collect and remit sales and use tax to the department under the agreement must register through the central registration system authorized under the agreement. Persons required to register under subsection (1) of this section are not relieved of that requirement because of registration under this subsection (3).

(4) Persons registered under subsection (3) of this section who are not required to register under subsection (1) of this section and who are not otherwise subject to the requirements of chapter 19.02 RCW are not subject to the fees imposed by the department under the authority of RCW 19.02.075. [2017 c 323 s 505; 2011 c 298 s 38; 2007 c 6 s 202; 1996 c 111 s 2. Prior: 1994 sp.s. c 7 s 446; 1994 sp.s. c 2 s 2; 1992 c 206 s 8; 1982 1st ex.s. c 4 s 1; 1979 ex.s. c 95 s 1; 1975 1st ex.s. c 278 s 77; 1961 c 15 s 82.32.030; prior: 1941 c 178 s 19, part; 1937 c 227 s 16, part; 1935 c 180 s 187, part; Rem. Supp. 1941 s 8370-187, part.]

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

Purpose—Intent—Agency transfer—Contracting—Effective date—2011 c 298: See notes following RCW 19.02.020.

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

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

Findings—Purpose—1996 c 111: "The legislature finds that small businesses play a vital role in the state's current and future economic health. The legislature also finds that the state's excise tax reporting and registration requirements are unduly burdensome for small businesses incurring little or no tax liability. The legislature recognizes the costs associated in complying with the reporting and registration requirements that are hindering the further development of those businesses. For these reasons the legislature with this act simplifies the tax reporting and registration requirements for certain small businesses." [1996 c 111 s 1.]

Effective date—1996 c 111: "This act shall take effect July 1, 1996." [1996 c 111 s 5.]

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date—1994 sp.s. c 7 ss 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Effective date—1994 sp.s. c 2: See note following RCW 82.04.4451.

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

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

RCW 82.32.033 Registration certificates—Special events—Promoter's duties—Penalties—Definitions. (1) A promoter of a special event within the state of Washington shall not permit a vendor to make or solicit retail sales of tangible personal property or services at the special event unless the promoter makes a good faith effort to obtain verification that the vendor has obtained a certificate of registration from the department.

(2) A promoter of a special event shall:

(a) Keep, in addition to the records required under RCW 82.32.070, a record of the dates and place of each special event, and the name, address, and registration certificate number of each vendor permitted to make or solicit retail sales of tangible personal property or services at the special event. The record of the date and place of a special event, and the name, address, and registration certificate number of each vendor at the event shall be preserved for a period of one year from the date of a special event; and

(b) Provide to the department, within twenty days of receipt of a written request from the department, a list of vendors permitted to make or solicit retail sales of tangible personal property or services. The list shall be in a form and contain such information as the department may require, and shall include the date and place of

the event, and the name, address, and registration certificate number of each vendor.

(3) If a promoter fails to make a good faith effort to comply with the provisions of this section, the promoter is liable for the penalties provided in this subsection (3).

(a) If a promoter fails to make a good faith effort to comply with the provisions of subsection (1) of this section, the department shall impose a penalty of one hundred dollars for each vendor permitted to make or solicit retail sales of tangible personal property or services at the special event.

(b) If a promoter fails to make a good faith effort to comply with the provisions of subsection (2)(b) of this section, the department shall impose a penalty of:

(i) Two hundred fifty dollars if the information requested is not received by the department within twenty days of the department's written request; and

(ii) One hundred dollars for each vendor for whom the information as required by subsection (2)(b) of this section is not provided to the department.

(4) The aggregate of penalties imposed under subsection (3) of this section may not exceed two thousand five hundred dollars for a special event if the promoter has not previously been penalized under this section. Under no circumstances is a promoter liable for sales tax or business and occupation tax not remitted to the department by a vendor at a special event.

(5) The department shall notify a promoter by mail, or electronically as provided in RCW 82.32.135, of any penalty imposed under this section, and the penalty shall be due within thirty days from the date of the notice. If any penalty imposed under this section is not received by the department by the due date, there shall be assessed interest on the unpaid amount beginning the day following the due date until the penalty is paid in full. The rate of interest shall be computed on a daily basis on the amount of outstanding penalty at the rate as computed under RCW 82.32.050(2). The rate computed shall be adjusted annually in the same manner as provided in RCW 82.32.050(1)(c).

(6) For purposes of this section:

(a) "Promoter" means a person who organizes, operates, or sponsors a special event and who contracts with vendors for participation in the special event.

(b) "Special event" means an entertainment, amusement, recreational, educational, or marketing event, whether held on a regular or irregular basis, at which more than one vendor makes or solicits retail sales of tangible personal property or services. The term includes, but is not limited to: Auto shows, recreational vehicle shows, boat shows, home shows, garden shows, hunting and fishing shows, stamp shows, comic book shows, sports memorabilia shows, craft shows, art shows, antique shows, flea markets, exhibitions, festivals, concerts, swap meets, bazaars, carnivals, athletic contests, circuses, fairs, or other similar activities. "Special event" does not include an event that is organized for the exclusive benefit of any nonprofit organization as defined in RCW 82.04.3651. An event is organized for the exclusive benefit of a nonprofit organization if all of the gross proceeds of retail sales of all vendors at the event inure to the benefit of the nonprofit organization on whose behalf the event is being held. "Special event" does not include athletic contests that involve competition between teams, when such competition consists of

more than five contests in a calendar year by at least one team at the same facility or site.

(c) "Vendor" means a person who, at a special event, makes or solicits retail sales of tangible personal property or services.

(7) "Good faith effort to comply" and "good faith effort to obtain" may be shown by, but is not limited to, circumstances where a promoter:

(a) Includes a statement on all written contracts with its vendors that a valid registration certificate number issued by the department of revenue is required for participation in the special event and requires vendors to indicate their registration certificate number on these contracts; and

(b) Provides the department with a list of vendors and their associated registration certificate numbers as provided in subsection (2)(b) of this section.

(8) This section does not apply to:

(a) A special event whose promoter does not charge more than two hundred dollars for a vendor to participate in a special event;

(b) A special event whose promoter charges a percentage of sales instead of, or in addition to, a flat charge for a vendor to participate in a special event if the promoter, in good faith, believes that no vendor will pay more than two hundred dollars to participate in the special event; or

(c) A person who does not organize, operate, or sponsor a special event, but only provides a venue, supplies, furnishings, fixtures, equipment, or services to a promoter of a special event. [2007 c 111 s 105; 2004 c 253 s 1; 2003 1st sp.s. c 13 s 15.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

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

RCW 82.32.045 Taxes—When due and payable—Reporting periods—Verified annual returns—Relief from filing requirements. (1) Except as otherwise provided in this chapter and subsection (6) of this section, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, 82.16, and 82.27 RCW, along with reports and returns on forms prescribed by the department, are due monthly within 25 days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. Except as provided in subsection (3) of this section, for these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) For annual filers, tax payments, along with reports and returns on forms prescribed by the department, are due on or before April 15th of the year immediately following the end of the period covered by the return.

(4) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(5) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than \$125,000 per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than \$24,000 per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

(6) (a) Taxes imposed under chapter 82.08 or 82.12 RCW on taxable events that occur beginning January 1, 2019, through June 30, 2019, and payable by a consumer directly to the department are due, on returns prescribed by the department, by July 25, 2019.

(b) This subsection (6) does not apply to the reporting and payment of taxes imposed under chapters 82.08 and 82.12 RCW:

(i) On the retail sale or use of motor vehicles, vessels, or aircraft; or

(ii) By consumers who are engaged in business, unless the department has relieved the consumer of the requirement to file returns pursuant to subsection (5) of this section. [2023 c 374 s 12; 2022 c 295 s 2. Prior: 2019 c 63 s 2; 2019 c 8 s 302; 2010 1st sp.s. c 23 s 1103; 2006 c 256 s 1; 2003 1st sp.s. c 13 s 8; 1999 c 357 s 1; 1996 c 111 s 3; 1983 2nd ex.s. c 3 s 63; 1982 1st ex.s. c 35 s 27; 1981 c 172 s 7; 1981 c 7 s 1.]

Application—2022 c 295: See note following RCW 82.04.4451.

Findings—Intent—2019 c 63: "The legislature finds that the filing of an annual excise tax return by January 31st can be a hardship for those many taxpayers, including self-employed taxpayers, who must wait to receive a 1099 form. Therefore, some state taxpayers do not receive the information they need to accurately file their taxes until on or shortly after the current state filing deadline. The legislature finds that it is an unnecessary burden on taxpayers, and an inefficient use of state time and resources, to require them to file their return under the current timeline using the best information available to them and then subsequently amend their return at a later date. The legislature intends to address this by extending the deadline for taxpayers who qualify to be annual filers." [2019 c 63 s 1.]

Effective date—2019 c 8 ss 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.

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.

Effective dates—2006 c 256: "(1) Sections 1 through 4 of this act take effect August 1, 2006.

(2) Sections 6 and 7 of this act take effect July 1, 2006." [2006 c 256 s 9.]

Application—2006 c 256: "(1) Sections 1 through 3 of this act apply to returns due after July 31, 2006.

(2) Section 4 of this act applies to payments due after July 31, 2006.

(3) Section 6 of this act only applies to assessments originally issued after June 30, 2006." [2006 c 256 s 7.]

Savings—2006 c 256: "This act does not affect any existing right acquired or liability or obligation incurred under the sections amended in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2006 c 256 s 8.]

Effective dates—2003 1st sp.s. c 13: "(1) Sections 8 through 10 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, 2003.

(2) Sections 11 through 16 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, 2003.

(3) Sections 1 through 7 of this act take effect January 1, 2004." [2003 1st sp.s. c 13 s 17.]

Intent—1999 c 357: "It is the intent of the legislature to allow the department of revenue to increase its ability to provide timely and cost-effective service to taxpayers." [1999 c 357 s 2.]

Effective date—1999 c 357: "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, 1999." [1999 c 357 s 4.]

Findings—Purpose—Effective date—1996 c 111: See notes following RCW 82.32.030.

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

Effective date—1981 c 7: "This act shall take effect October 1, 1981." [1981 c 172 s 9; 1981 c 7 s 5.]

RCW 82.32.050 Deficient tax or penalty payments—Notice—Interest—Limitations—Time extension or correction of an assessment during state of emergency. (1) If upon examination of any returns or from

other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the additional amount shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

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

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

(c) (i) Except as otherwise provided in this subsection (1)(c), interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice.

(ii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3), interest must be computed from the last day of April immediately following each such annual reporting period included in the notice, until the due date of the notice.

(iii) For purposes of computing interest under (c) (i) and (ii) of this subsection (1):

(A) The same computation of interest applies regardless of whether the department grants additional time for filing any return under RCW 82.32.080(4) (a) (i).

(B) If the department extends a due date under subsection (3) of this section or RCW 82.32.080(4) (b), and payment is not made in full by the extended due date, interest is computed from the last day of the month in which the extended due date occurs until the date of payment.

(iv) If payment in full is not made by the due date of the notice, additional interest shall be computed under this subsection (1)(c) until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average shall be calculated using the rates from four months: January, April, and July of the

calendar year immediately preceding the new year, and October of the previous preceding year.

(3) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the due date of any assessment or correction of an assessment for additional taxes, penalties, or interest as the department deems proper.

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

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

(a) "Due date of the notice" means the date indicated in the notice by which the amount due in the notice must be paid, or such later date as provided by RCW 1.12.070(3).

(b) "Return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department and that has a statutorily defined due date. "Return" also means an application for refund under RCW 82.08.0206. [2022 c 282 s 2; 2022 c 41 s 2; 2020 c 139 s 60; 2008 c 181 s 501; 2007 c 111 s 106; 2003 c 73 s 1; 1997 c 157 s 1; 1996 c 149 s 2; 1992 c 169 s 1; 1991 c 142 s 9; 1989 c 378 s 19; 1971 ex.s. c 299 s 16; 1965 ex.s. c 141 s 1; 1961 c 15 s 82.32.050. Prior: 1951 1st ex.s. c 9 s 5; 1949 c 228 s 20; 1945 c 249 s 9; 1939 c 225 s 27; 1937 c 227 s 17; 1935 c 180 s 188; Rem. Supp. 1949 s 8370-188.]

Reviser's note: This section was amended by 2022 c 41 s 2 and by 2022 c 282 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Application—Effective date—2022 c 282: See notes following RCW 82.32.057.

Retroactive application—2020 c 139 ss 60 and 61: "Sections 60 and 61 of this act apply both prospectively and retroactively to January 1, 2020." [2020 c 139 s 62.]

Effective date—2020 c 139 ss 60-62: "Sections 60 through 62 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 [March 25, 2020]." [2020 c 139 s 63.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Findings—Intent—1996 c 149: "The legislature finds that a consistent application of interest and penalties is in the best interest of the residents of the state of Washington. The legislature also finds that the goal of the department of revenue's interest and penalty system should be to encourage taxpayers to voluntarily comply with Washington's tax code in a timely manner. The administration of tax programs requires that there be consequences for those taxpayers who do not timely satisfy their reporting and tax obligations, but these consequences should not be so severe as to discourage taxpayers from voluntarily satisfying their tax obligations.

It is the intent of the legislature that, to the extent possible, a single interest and penalty system apply to all tax programs administered by the department of revenue." [1996 c 149 s 1.]

Effective date—1996 c 149: "This act shall take effect January 1, 1997." [1996 c 149 s 20.]

Effective date—Applicability—1992 c 169: "(1) This act shall take effect July 1, 1992.

(2) This act is effective for all written waivers that remain enforceable as of July 1, 1992." [1992 c 169 s 4.]

Effective date—1991 c 142 ss 9-11: "Sections 9 through 11 of this act shall take effect January 1, 1992." [1991 c 142 s 13.]

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

RCW 82.32.052 Interest and penalties—Waiver for amounts unpaid as of February 1, 2011. (1) Except as otherwise provided in subsections (4) and (5) of this section, the department must waive all penalties and interest otherwise due under this chapter and that are unpaid as of February 1, 2011, if all of the following circumstances are met:

(a) The penalties and interest are imposed with respect to: (i) State business and occupation tax, state public utility tax, state or local sales tax, or state or local use tax; and (ii) tax liability that first became due to the department before February 1, 2011, which includes taxes billed to the taxpayer, or disclosed by the taxpayer to the department, on or after February 1, 2011, but that were required by this chapter to have been reported and paid by the taxpayer before February 1, 2011;

(b) The taxpayer must file with the department no later than April 18, 2011: (i) All outstanding tax returns for the taxes specified in (a) (i) of this subsection (1); and (ii) any amended returns covering tax liabilities with respect to which a penalty and interest waiver under this section is requested;

(c) Before May 1, 2011, the taxpayer must remit full payment to the department of the balance due on all tax liabilities for which a penalty and interest waiver under this section is requested. If a waiver is requested for penalties or interest associated with an invoice that has been billed to the taxpayer, the taxpayer must remit full payment to the department of the entire balance due on that invoice other than any penalty and interest eligible for waiver under this section, even if the invoice includes taxes not specified in

(a)(i) of this subsection (1). If the invoice is a tax warrant, the taxpayer must also remit full payment to the department of any filing or other fees added to the tax warrant, including the filing fees provided in RCW 36.18.012 (2) and (10), the fee imposed in RCW 36.18.016(4), and the surcharge imposed in RCW 40.14.027;

(d) The taxpayer must file and pay in full by the due date all tax returns that become due after January 31, 2011, and before May 1, 2011, for all taxes administered by the department under this chapter;

(e) No later than April 18, 2011, the department must receive a completed application for penalty and interest waiver under this section in a form and manner prescribed by the department;

(f) The taxpayer must never have had an evasion penalty assessed against the taxpayer by the department under RCW 82.32.090 or a penalty assessed against the taxpayer by the department under RCW 82.32.291 for misusing a reseller permit or resale certificate; and

(g) The taxpayer must never have been a defendant in a criminal prosecution related to an offense involving the failure to collect or pay the proper amount of any tax administered by the department under this chapter.

(2) Taxpayers receiving penalty or interest relief under this section may not seek a refund, or otherwise challenge the amount, of any tax liability paid as required by subsection (1)(c) of this section. This subsection (2) applies to refund requests or appeals filed directly with the department and to proceedings brought in any court or administrative tribunal.

(3) All tax liability reported and paid as required in subsection (1)(b), (c), and (d) of this section is subject to verification by the department as provided in RCW 82.32.050. This section does not preclude the assessment of taxes, penalties, and interest with respect to any amounts determined by the department to have been underpaid for any tax period for which the taxpayer previously received penalty or interest relief under this section.

(4) This section does not authorize the department to waive the evasion penalty currently authorized by RCW 82.32.090(7) or the penalty currently authorized by RCW 82.32.291 for misusing a reseller permit or resale certificate.

(5) If taxpayers are current for tax returns due as of November 25, 2010, tax liability that accrues after that date would not qualify under this section.

(6) Nothing in this section may be construed as requiring a taxpayer to have first paid any penalty or interest for which a waiver is sought under this section.

(7) Solely for purposes of determining whether a taxpayer qualifies for a waiver of penalties or interest under this section with respect to a balance owing as of February 1, 2011, on any invoice issued by the department, any payments made to the department on that taxpayer's account before May 1, 2011, are deemed to have been applied first to any of the taxes specified in subsection (1)(a)(i) of this section, then to any other taxes, and then to penalties or interest, if such payments were applied either:

(a) To that invoice; or

(b) Against any liability reflected in that invoice before that invoice was issued by the department.

(8) A taxpayer in a bankruptcy proceeding is ineligible for relief under this section to the extent that the payment of any tax debt by the taxpayer to the department as required under this section violates the federal bankruptcy code. [2010 2nd sp.s. c 2 s 1.]

Effective date—2010 2nd sp.s. c 2: "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 February 1, 2011." [2010 2nd sp.s. c 2 s 3.]

RCW 82.32.055 Interest and penalties—Waiver for military personnel. (1) Subject to the requirements in subsections (2) through (4) of this section, the department shall waive or cancel interest and penalties imposed under this chapter if the interest and penalties are:

(a) Imposed during any period of armed conflict; and

(b) Imposed on a taxpayer where a majority owner of the taxpayer is an individual who is on active duty in the military, and the individual is participating in a conflict and assigned to a duty station outside the territorial boundaries of the United States.

(2) To receive a waiver or cancellation of interest and penalties under this section, the taxpayer must submit to the department a copy of the individual's deployment orders for deployment outside the territorial boundaries of the United States.

(3) The department may not waive or cancel interest and penalties under this section if the gross income of the business exceeded one million dollars in the calendar year prior to the individual's initial deployment outside the United States for the armed conflict. The department may not waive or cancel interest and penalties under this section for a taxpayer for more than twenty-four months.

(4) During any period of armed conflict, for any notice sent to a taxpayer that requires a payment of interest, penalties, or both, the notice must clearly indicate on or in the notice that interest and penalties may be waived under this section for qualifying taxpayers. [2008 c 184 s 1.]

RCW 82.32.057 Application of interest to delinquent taxes—Extensions. Except as otherwise provided in this chapter, interest applies to taxes that are not paid by the original due date even though the department has granted an extension as authorized under this chapter. However, the department may not assess penalties for late payment of any such tax that is paid in full by the extended due date. [2022 c 282 s 1.]

Application—2022 c 282: "With regard to the imposition of interest, sections 1 and 2 of this act apply to taxes due under an extension granted by the department of revenue on or after January 1, 2023, except in cases where the department of revenue received the request for the extension before January 1, 2023." [2022 c 282 s 3.]

Effective date—2022 c 282: "Except for section 4 of this act, this act takes effect January 1, 2023." [2022 c 282 s 5.]

RCW 82.32.060 Excess payment of tax, penalty, or interest—Credit or refund—Payment of judgments for refund. (1) If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that

within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050 any amount of tax, penalty, or interest has been paid in excess of that properly due, the excess amount paid within, or attributable to, such period must be credited to the taxpayer's account or must be refunded to the taxpayer, at the taxpayer's option. Except as provided in subsection (2) of this section, no refund or credit may be made for taxes, penalties, or interest paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(2) (a) The execution of a written waiver under RCW 82.32.050 or 82.32.100 will extend the time for making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the department discovers a refund or credit is due.

(b) A refund or credit must be allowed for an excess payment resulting from the failure to claim a bad debt deduction, credit, or refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, less than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

(3) Any such refunds must be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 must have any refunds paid by electronic funds transfer if the department has the necessary account information to facilitate a refund by electronic funds transfer.

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

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

(b) For refunds or credits of amounts paid or other recovery allowed to a taxpayer after December 31, 1991, the rate of interest must be the rate as computed for assessments under RCW 82.32.050(2) less one percent. This rate of interest applies for all interest allowed through December 31, 1998. Interest allowed after December 31, 1998, must be computed at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(5) Interest allowed on a credit notice or refund issued after December 31, 2003, must be computed as follows:

(a) If all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund

were made on or before the due date of the final return for each calendar year or the final reporting period included in the notice or refund:

(i) Interest must be computed from January 31st following each calendar year included in a notice or refund;

(ii) Interest must be computed from the last day of the month following the final month included in a notice or refund; or

(iii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3), interest must be computed from the last day of April following each such annual reporting period included in a notice or refund.

(b) If the taxpayer has not made all overpayments for each calendar year and all reporting periods ending with the final month included in a notice or refund on or before the dates specified by RCW 82.32.045 for the final return for each calendar year or the final month included in the notice or refund, interest must be computed from the last day of the month following the date on which payment in full of the liabilities was made for each calendar year included in a notice or refund, and the last day of the month following the date on which payment in full of the liabilities was made if the final month included in a notice or refund is not the end of a calendar year.

(c) Interest included in a credit notice must accrue up to the date the taxpayer could reasonably be expected to use the credit notice, as defined by the department's rules. If a credit notice is converted to a refund, interest must be recomputed to the date the refund is issued, but not to exceed the amount of interest that would have been allowed with the credit notice. [2020 c 139 s 61; 2009 c 176 s 4; 2004 c 153 s 306; 2003 c 73 s 2; 1999 c 358 s 13; 1997 c 157 s 2; 1992 c 169 s 2; 1991 c 142 s 10; 1990 c 69 s 1; 1989 c 378 s 20; 1979 ex.s. c 95 s 4; 1971 ex.s. c 299 s 17; 1965 ex.s. c 173 s 27; 1963 c 22 s 1; 1961 c 15 s 82.32.060. Prior: 1951 1st ex.s. c 9 s 6; 1949 c 228 s 21; 1935 c 180 s 189; Rem. Supp. 1949 s 8370-189.]

Retroactive application—Effective date—2020 c 139 ss 60-62: See notes following RCW 82.32.050.

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

Effective date—2003 c 73 s 2: "Section 2 of this act takes effect January 1, 2004." [2003 c 73 s 3.]

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

Effective date—Applicability—1992 c 169: See note following RCW 82.32.050.

Effective date—1991 c 142 ss 9-11: See note following RCW 82.32.050.

Effective date—1990 c 69: "This act shall take effect January 1, 1991." [1990 c 69 s 5.]

Severability—1990 c 69: "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." [1990 c 69 s 4.]

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

RCW 82.32.062 Additional offset for excess payment of sales tax.

(1) In addition to the procedure set forth in RCW 82.32.060 and as an exception to the four-year period explicitly set forth in RCW 82.32.060, an offset for a tax that has been paid in excess of that properly due may be taken under the following conditions:

- (a) The tax paid in excess of that properly due was sales or use tax paid on property purchased for the purpose of leasing;
- (b) The taxpayer was at the time of purchase entitled to purchase the property at wholesale under RCW 82.04.060; and
- (c) The taxpayer substantiates that the taxpayer paid sales or use tax on the purchase of the property and that there was no intervening use of the property by the taxpayer.

(2) The offset under this section is applied to and reduced by the amount of retail sales tax otherwise due from the beginning of lease of the property until the offset is extinguished. [2020 c 139 s 38; 2002 c 57 s 1.]

RCW 82.32.065 Tax refund to consumer under new motor vehicle warranty laws—Credit or refund to new motor vehicle manufacturer. If a manufacturer makes a refund of sales tax to a consumer upon return of a new motor vehicle under chapter 19.118 RCW, the department shall credit or refund to the manufacturer the amount of the tax refunded, upon receipt of documentation as required by the department. [1987 c 344 s 16.]

Effective dates—1987 c 344: See RCW 19.118.900.

RCW 82.32.070 Records to be preserved—Examination—Estoppel to question assessment—Unified business identifier account number records. (1) Every taxpayer liable for any tax collected by the department must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of any tax for which the taxpayer may be liable. Such records must include copies of all of the taxpayer's federal income tax and state tax returns and reports. All of the taxpayer's books, records, and invoices must be open for examination at any time by the department of revenue. In the case of an out-of-state taxpayer that does not keep the necessary books and records within this state, it is sufficient if the taxpayer produces within the state such books and records as are required by the department of revenue, or permits the examination by an agent authorized or designated by the department of revenue at the place where such books and records are kept. Any taxpayer who fails to comply with the requirements of this section is forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department of revenue based upon any period for which such books, records, and invoices have not been so kept and preserved.

(2) A person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW must obtain and preserve a record of the unified business identifier account number for the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty determined by the director, but not to exceed two hundred fifty dollars. The department must notify the taxpayer and collect the penalty in the same manner as penalties under RCW 82.32.100. [2015 c 86 s 310; 2013 c 23 s 322; 1999 c 358 s 14; 1997 c 54 s 4; 1983 c 3 s 221; 1967 ex.s. c 89 s 2; 1961 c 15 s 82.32.070. Prior: 1951 1st ex.s. c 9 s 7; 1935 c 180 s 190; RRS s 8370-190.]

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

RCW 82.32.080 Payment by check—Electronic funds transfer—Rules—Mailing returns or remittances—Time extension—Deposits—Time extension during state of emergency—Records—Payment must accompany return. (1) When authorized by the department, payment of the tax may be made by uncertified check under such rules as the department prescribes, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, will remain liable for payment of the tax and for all legal penalties and interest, the same as if such check had not been tendered.

(2)(a) Except as otherwise provided in this subsection, payment of the tax must be made by electronic funds transfer, as defined in RCW 82.32.085. As an alternative to electronic funds transfer, the department may authorize other forms of electronic payment, such as payment by credit card. All taxes administered by this chapter are subject to this requirement, except that the department may exclude any taxes not reported on the combined excise tax return or any successor return from the electronic payment requirement in this subsection.

(b) The department may waive the electronic payment requirement in this subsection for any taxpayer or class of taxpayers, for good cause or for whom the department has assigned a reporting frequency that is less than quarterly. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to accept payment of taxes by electronic funds transfer or other acceptable forms of electronic payment from taxpayers that are not subject to the mandatory electronic payment requirements in this subsection.

(3)(a) Except as otherwise provided in this subsection, returns must be filed electronically using the department's online tax filing service or other method of electronic reporting as the department may authorize.

(b) The department may waive the electronic filing requirement in this subsection for any taxpayer or class of taxpayers, for good cause or for whom the department has assigned a reporting frequency that is less than quarterly. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to allow electronic filing of returns from taxpayers that are not subject to the mandatory electronic filing requirements in this subsection.

(4) (a) (i) The department, for good cause shown, may extend the time for making and filing any return, and may grant such reasonable additional time within which to make and file returns as it may deem proper, but any permanent extension granting the taxpayer a reporting date without penalty more than ten days beyond the due date, and any extension in excess of thirty days must be conditional on deposit with the department of an amount to be determined by the department which is approximately equal to the estimated tax liability for the reporting period or periods for which the extension is granted. In the case of a permanent extension or a temporary extension of more than thirty days the deposit must be deposited within the state treasury with other tax funds and a credit recorded to the taxpayer's account which may be applied to taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where an extension of more than thirty days has been granted.

(ii) The department must review the requirement for deposit at least annually and may require a change in the amount of the deposit required when it believes that such amount does not approximate the tax liability for the reporting period or periods for which the extension is granted.

(b) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for making or filing any return as the department deems proper. The department may not require any deposit as a condition for granting an extension under this subsection (4) (b).

(5) (a) The department must keep full and accurate records of all funds received and disbursed by it. Subject to the provisions of RCW 82.32.105, 82.32.052, and 82.32.350, the department must apply the payment of the taxpayer in the following order, without regard to any direction of the taxpayer: (i) Interest; (ii) penalties; (iii) fees that are not within the definition of tax in RCW 82.32.020; (iv) other nontax amounts; (v) taxes, except spirits taxes; and (vi) spirits taxes.

(b) For purposes of this subsection, "spirits taxes" has the same meaning as in RCW 82.08.155.

(6) The department may refuse to accept any return that is not accompanied by a remittance of the tax shown to be due thereon or that is not filed electronically as required in this section. When such return is not accepted, the taxpayer is deemed to have failed or refused to file a return and is subject to the procedures provided in RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The above authority to refuse to accept a return may not apply when a return is timely filed electronically and a timely payment has been made by electronic funds transfer or other form of electronic payment as authorized by the department.

(7) Except for returns and remittances required to be transmitted to the department electronically under this section and except as otherwise provided in this chapter, a return or remittance that is transmitted to the department by United States mail is deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it. A return or remittance that is transmitted to the department electronically is deemed filed or received according to procedures set forth by the department.

(8) (a) For purposes of subsections (2) and (3) of this section, "good cause" means the inability of a taxpayer to comply with the requirements of subsection (2) or (3) of this section because:

(i) The taxpayer does not have the equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section;

(ii) The equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section is not functioning properly;

(iii) The taxpayer does not have access to the internet using the taxpayer's own equipment;

(iv) The taxpayer does not have a bank account or a credit card;

(v) The taxpayer's bank is unable to send or receive electronic funds transfer transactions; or

(vi) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from complying with the requirements of subsection (2) or (3) of this section.

(b) "Good cause" also includes any circumstance that, in the department's judgment, supports the efficient or effective administration of the tax laws of this state, including providing relief from the requirements of subsection (2) or (3) of this section to any taxpayer that is voluntarily collecting and remitting this state's sales or use taxes on sales to Washington customers but has no legal requirement to be registered with the department. [2015 c 86 s 311; 2012 c 39 s 2. Prior: 2011 c 24 s 1; 2010 2nd sp.s. c 2 s 2; prior: 2010 c 111 s 304; 2010 c 106 s 226; 2009 c 176 s 2; 2008 c 181 s 502; 1999 c 357 s 3; 1997 c 156 s 3; 1990 c 69 s 2; 1971 ex.s. c 299 s 18; 1965 ex.s. c 141 s 2; 1963 ex.s. c 28 s 6; 1961 c 15 s 82.32.080; prior: 1951 1st ex.s. c 9 s 8; 1949 c 228 s 22; 1935 c 180 s 191; Rem. Supp. 1949 s 8370-191.]

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

Application—2011 c 24: "This act applies only to tax returns and payments originally due after July 22, 2011, including tax returns and payments for tax liabilities incurred before July 22, 2011, and originally due after July 22, 2011." [2011 c 24 s 4.]

Effective date—2010 2nd sp.s. c 2: See note following RCW 82.32.052.

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

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

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Intent—Effective date—1999 c 357: See notes following RCW 82.32.045.

Severability—Effective date—1990 c 69: See notes following RCW 82.32.060.

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

Findings—Payment of excise taxes by electronic funds transfer—2006 c 256: See note following RCW 82.32.045.

Tax returns, remittances, etc., filing and receipt when transmitted by mail: RCW 1.12.070.

RCW 82.32.085 Electronic funds transfer—Generally. (1)

"Electronic funds transfer" means any transfer of funds, other than a transaction originated or accomplished by conventional check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a checking or other deposit account. "Electronic funds transfer" includes payments made by electronic check (e-check).

(2) (a) An electronic funds transfer using the automated clearinghouse credit method must be completed so that the state receives collectible funds on or before the next banking day following the due date.

(b) A remittance made using the automated clearinghouse debit method or any other method of electronic payment authorized by the department will be deemed to be received on the due date if the electronic funds transfer or other electronic payment is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date.

(3) The department must adopt rules necessary to implement the provisions of RCW 82.32.080 and this section. The rules must include but are not limited to: (a) Coordinating the filing of tax returns with payment by electronic funds transfer or other form of electronic payment as authorized by the department; (b) form and content of electronic funds transfer; (c) voluntary use of electronic funds transfer with permission of the department for those taxpayers that are not subject to the mandatory electronic payment requirement in RCW 82.32.080; (d) use of commonly accepted means of electronic funds transfer; (e) means of crediting and recording proof of payment; and (f) means of correcting errors in transmission. [2011 c 24 s 2; 2009 c 176 s 3; 2006 c 256 s 4; 1990 c 69 s 3.]

Application—2011 c 24: See note following RCW 82.32.080.

Findings—Payment of excise taxes by electronic funds transfer—2006 c 256: "(1) The legislature recognizes the following with respect to the payment of excise taxes to the department of revenue by electronic funds transfer:

(a) Taxpayers required to pay their taxes by electronic funds transfer must do so through the use of either the automated clearinghouse debit method or automated clearinghouse credit method;

(b) For a remittance by electronic funds transfer to be considered timely, the transfer must be completed so that the state receives collectible funds on or before the next banking day following the due date;

(c) For the state to receive collectible funds on or before the next banking day following the due date, taxpayers using the automated

clearinghouse debit method must initiate the transfer before 5:00 p.m. pacific time on the due date;

(d) The department of revenue receives information identifying the precise date and time the electronic funds transfer is initiated when a taxpayer uses the debit method; and

(e) The department receives information identifying only the date that the state receives collectible funds when a taxpayer uses the automated clearinghouse credit method.

(2) The legislature therefore finds that a remittance made using the automated clearinghouse debit method should be deemed to be received on the due date if the transfer is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date. The legislature further finds that because the department does not receive information about when an electronic funds transfer is initiated when a taxpayer uses the automated clearinghouse credit method, such transfers must be completed so that the state receives collectible funds on or before the next banking day following the due date." [2006 c 256 s 5.]

Effective dates—Application—Savings—2006 c 256: See notes following RCW 82.32.045.

Severability—Effective date—1990 c 69: See notes following RCW 82.32.060.

RCW 82.32.087 Direct pay permits. (1) The director may grant a direct pay permit to a taxpayer who demonstrates, to the satisfaction of the director, that the taxpayer meets the requirements of this section. The direct pay permit allows the taxpayer to accrue and remit directly to the department use tax on the acquisition of tangible personal property or sales tax on the sale of or charges made for labor and/or services, in accordance with all of the applicable provisions of this title. Any taxpayer that uses a direct pay permit must remit state and local sales or use tax directly to the department. The agreement by the purchaser to remit tax directly to the department, rather than pay sales or use tax to the seller, relieves the seller of the obligation to collect sales or use tax and requires the buyer to pay use tax on the tangible personal property and sales tax on the sale of or charges made for labor and/or services.

(2) (a) A taxpayer may apply for a permit under this section if: (i) The taxpayer's cumulative tax liability is reasonably expected to be two hundred forty thousand dollars or more in the current calendar year; or (ii) the taxpayer makes purchases subject to the taxes imposed under chapter 82.08 or 82.12 RCW in excess of ten million dollars per calendar year. For the purposes of this section, "tax liability" means the amount required to be remitted to the department for taxes administered under this chapter, except for the taxes imposed or authorized by chapters 82.14A, 82.14B, 82.24, 82.27, 82.29A, and 84.33 RCW.

(b) Application for a permit must be made in writing to the director in a form and manner prescribed by the department. A taxpayer who transacts business in two or more locations may submit one application to cover the multiple locations.

(c) The director must review a direct pay permit application in a timely manner and must notify the applicant, in writing, of the approval or denial of the application. The department must approve or deny an application based on the applicant's ability to comply with local government use tax coding capabilities and responsibilities; requirements for vendor notification; recordkeeping obligations; electronic data capabilities; and tax reporting procedures. Additionally, an application may be denied if the director determines that denial would be in the best interest of collecting taxes due under this title. The department must provide a direct pay permit to an approved applicant with the notice of approval. The direct pay permit must clearly state that the holder is solely responsible for the accrual and payment of the tax imposed under chapters 82.08 and 82.12 RCW and that the seller is relieved of liability to collect tax imposed under chapters 82.08 and 82.12 RCW on all sales to the direct pay permit holder. The taxpayer may petition the director for reconsideration of a denial.

(d) A taxpayer who uses a direct pay permit must continue to maintain records that are necessary to a determination of the tax liability in accordance with this title. A direct pay permit is not transferable and the use of a direct pay permit may not be assigned to a third party.

(3) Taxes for which the direct pay permit is used are due and payable on the tax return for the reporting period in which the taxpayer (a) receives the tangible personal property purchased or in which the labor and/or services are performed or (b) receives an invoice for such property or such labor and/or services, whichever period is earlier.

(4) The holder of a direct pay permit must furnish a copy of the direct pay permit to each vendor with whom the taxpayer has opted to use a direct pay permit. Sellers who make sales upon which the sales or use tax is not collected by reason of the provisions of this section, in addition to existing requirements under this title, must maintain a copy of the direct pay permit and any such records or information as the department may specify.

(5) A direct pay permit is subject to revocation by the director at any time the department determines that the taxpayer has violated any provision of this section or that revocation would be in the best interests of collecting the taxes due under this title. The notice of revocation must be in writing and is effective either as of the end of the taxpayer's next normal reporting period or a date deemed appropriate by the director and identified in the revocation notice. The taxpayer may petition the director for reconsideration of a revocation and reinstatement of the permit.

(6) Any taxpayer who chooses to no longer use a direct pay permit or whose permit is revoked by the department, must return the permit to the department and immediately make a good faith effort to notify all vendors to whom the permit was given, advising them that the permit is no longer valid.

(7) Except as provided in this subsection, the direct pay permit may be used for any purchase of tangible personal property and any retail sale under RCW 82.04.050. The direct pay permit may not be used for:

(a) Purchases of meals or beverages;

(b) Purchases of motor vehicles, trailers, boats, airplanes, and other property subject to requirements for title transactions by the department of licensing;

(c) Purchases for which a reseller permit or other documentation authorized under RCW 82.04.470 may be used;

(d) Purchases that meet the definitions of RCW 82.04.050 (2) (e) and (f), (3) (a) through (c), (e), (f), and (g), (5), and (15); or

(e) Other activities subject to tax under chapter 82.08 or 82.12 RCW that the department by rule designates, consistent with the purposes of this section, as activities for which a direct pay permit is not appropriate and may not be used. [2015 c 169 s 11; 2010 c 112 s 10. Prior: 2009 c 563 s 210; 2009 c 176 s 5; 2001 c 188 s 2.]

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

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.

Finding—Intent—2001 c 188: "The legislature finds that programs to allow buyers to remit sales and use tax, rather than traditional collection and remittance by the seller of sales and use tax, can assist in tax compliance, ease administrative burdens, and reduce impacts on buyers and sellers. It is the intent of the legislature to grant the department of revenue the authority to permit certain buyers direct payment authority of tax in those instances where it can be shown, to the satisfaction of the department, that direct payment does not burden sellers and does not complicate administration for the department. Buyers authorized for direct payment will remit tax directly to the department, and will pay use tax on tangible personal property and sales tax on retail labor and/or services.

This act does not affect the requirements to use a resale certificate nor does it affect the business and occupation tax treatment of the seller." [2001 c 188 s 1.]

Effective date—2001 c 188: "This act takes effect August 1, 2001." [2001 c 188 s 7.]

RCW 82.32.090 Late payment—Disregard of written instructions—Evasion—Penalties.

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there is assessed a penalty of nine percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there is assessed a total penalty of nineteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there is assessed a total penalty of twenty-nine percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars.

(2) If the department of revenue determines that any tax has been substantially underpaid, there is assessed a penalty of five percent of the amount of the tax determined by the department to be due. If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, there is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment

of any tax determined by the department to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added may be less than five dollars. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least one thousand dollars.

(3) If a warrant is issued by the department of revenue for the collection of taxes, increases, and penalties, there is added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department may not impose the penalty under this subsection (4) if a person who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that a taxpayer has disregarded specific written instructions as to reporting or tax liabilities, or willfully disregarded the requirement to file returns or remit payment electronically, as provided by RCW 82.32.080, the department must add a penalty of ten percent of the amount of the tax that should have been reported and/or paid electronically or the additional tax found due if there is a deficiency because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless, in the case of a deficiency, the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. A taxpayer will be considered to have made a good faith effort to comply with specific written instructions to file returns and/or remit taxes electronically only if the taxpayer can show good cause, as defined in RCW 82.32.080, for the failure to comply with such instructions. A taxpayer will be considered to have willfully disregarded the requirement to file returns or remit payment electronically if the department has mailed or otherwise delivered the specific written instructions to the taxpayer on at least two occasions. Specific written instructions may be given as a part of a tax assessment, audit, determination, closing agreement, or other written communication, provided that such specific written instructions apply only to the taxpayer addressed or referenced on such communication. Any specific written instructions by the department must be clearly identified as such and must inform the taxpayer that failure to follow

the instructions may subject the taxpayer to the penalties imposed by this subsection. If the department determines that it is necessary to provide specific written instructions to a taxpayer that does not comply with the requirement to file returns or remit payment electronically as provided in RCW 82.32.080, the specific written instructions must provide the taxpayer with a minimum of forty-five days to come into compliance with its electronic filing and/or payment obligations before the department may impose the penalty authorized in this subsection.

(6) If the department finds that all or any part of a deficiency resulted from engaging in a disregarded transaction, as described in RCW 82.32.655(3), the department must assess a penalty of thirty-five percent of the additional tax found to be due as a result of engaging in a transaction disregarded by the department under RCW 82.32.655(2). The penalty provided in this subsection may be assessed together with any other applicable penalties provided in this section on the same tax found to be due, except for the evasion penalty provided in subsection (7) of this section. The department may not assess the penalty under this subsection if, before the department discovers the taxpayer's use of a transaction described under RCW 82.32.655(3), the taxpayer discloses its participation in the transaction to the department.

(7) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due must be added.

(8) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

(9) The department may not impose the evasion penalty in combination with the penalty for disregarding specific written instructions or the penalty provided in subsection (6) of this section on the same tax found to be due.

(10) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department, and that has a statutorily defined due date. [2015 3rd sp.s. c 5 s 401; 2011 c 24 s 3; 2010 1st sp.s. c 23 s 203; 2006 c 256 s 6; 2003 1st sp.s. c 13 s 13; 2000 c 229 s 7; 1999 c 277 s 11; 1996 c 149 s 15; 1992 c 206 s 3; 1991 c 142 s 11; 1987 c 502 s 9; 1983 2nd ex.s. c 3 s 23; 1983 c 7 s 32; 1981 c 172 s 8; 1981 c 7 s 2; 1971 ex.s. c 179 s 1; 1967 ex.s. c 149 s 26; 1965 ex.s. c 141 s 3; 1963 ex.s. c 28 s 7; 1961 c 15 s 82.32.090. Prior: 1959 c 197 s 12; 1955 c 110 s 1; 1951 1st ex.s. c 9 s 9; 1949 c 228 s 23; 1937 c 227 s 18; 1935 c 180 s 192; Rem. Supp. 1949 s 8370-192.]

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

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

Application—2011 c 24: See note following RCW 82.32.080.

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.

Effective dates—Application—Savings—2006 c 256: See notes following RCW 82.32.045.

Application—2003 1st sp.s. c 13 s 13: "Except as otherwise provided in this section, section 13 of this act applies to all penalties imposed after June 30, 2003. The five percent penalty imposed in section 13(2) of this act applies to all assessments originally issued after June 30, 2003." [2003 1st sp.s. c 13 s 14.]

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

Effective date—2000 c 229: See note following RCW 46.16A.030.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

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

Effective date—1991 c 142 ss 9-11: See note following RCW 82.32.050.

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

Construction—Severability—Effective dates—1983 c 7: See notes following RCW 82.08.020.

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

Effective date—1981 c 7: See note following RCW 82.32.045.

Construction—1971 ex.s. c 179: "This 1971 amendatory act shall apply only to taxes becoming due and payable in June, 1971 and thereafter." [1971 ex.s. c 179 s 2.]

RCW 82.32.100 Failure to file returns or provide records—Assessment of tax by department—Penalties and interest. (1) If any person fails or refuses to make any return or to make available for examination the records required by this chapter, the department shall proceed, in such manner as it may deem best, to obtain facts and information on which to base its estimate of the tax; and to this end the department may examine the records of any such person as provided in RCW 82.32.110.

(2) As soon as the department procures such facts and information as it is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to make a return, it shall proceed to determine and assess against such person the tax and any applicable penalties or interest due, but such action shall not deprive such person from appealing the assessment as provided in this chapter. The department shall notify the taxpayer by mail, or

electronically as provided in RCW 82.32.135, of the total amount of such tax, penalties, and interest, and the total amount shall become due and shall be paid within thirty days from the date of such notice.

(3) No assessment or correction of an assessment may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2). [2007 c 111 s 107; 1992 c 169 s 3; 1989 c 378 s 21; 1971 ex.s. c 299 s 20; 1965 ex.s. c 141 s 4; 1961 c 15 s 82.32.100. Prior: 1951 1st ex.s. c 9 s 10; 1935 c 180 s 194; RRS s 8370-194.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Effective date—Applicability—1992 c 169: See note following RCW 82.32.050.

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

RCW 82.32.105 Waiver or cancellation of penalties or interest—Rules. (1) If the department finds that the payment by a taxpayer of a tax less than that properly due or the failure of a taxpayer to pay any tax by the due date was the result of circumstances beyond the control of the taxpayer, the department must waive or cancel any penalties imposed under this chapter with respect to such tax.

(2) The department must waive or cancel the penalty imposed under RCW 82.32.090(1) when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under subsection (1) of this section if:

(a) The taxpayer requests the waiver for a tax return required to be filed under RCW 54.28.040, 82.32.045, 82.14B.061, 82.23B.020, 82.29A.050, or 84.33.086; and

(b) The taxpayer has timely filed and remitted payment on all tax returns due for that tax program for a period of 24 months immediately preceding the period covered by the return for which the waiver is being requested.

(3) The department must waive or cancel interest imposed under this chapter if:

(a) The failure to timely pay the tax was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of a due date for payment of an assessment of deficiency was not at the request of the taxpayer and was for the sole convenience of the department.

(4) The department must adopt rules for the waiver or cancellation of penalties and interest imposed by this chapter. [2023 c 374 s 13; 2017 c 323 s 106; 1998 c 304 s 13; 1996 c 149 s 17; 1975 1st ex.s. c 278 s 78; 1965 ex.s. c 141 s 8.]

Effective dates—2017 c 323 ss 101-109: See note following RCW 54.28.125.

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

Findings—Effective dates—1998 c 304: See notes following RCW 82.14B.020.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

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

RCW 82.32.110 Examination of books or records—Subpoenas—Contempt of court. The department of revenue or its duly authorized agent may examine any books, papers, records, or other data, or stock of merchandise bearing upon the amount of any tax payable or upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made; and may require the attendance of any person at a time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case, or served in like manner by an agent of the department of revenue.

The persons summoned may be required to testify and produce any books, papers, records, or data required by the department with respect to any tax, or the liability of any person therefor.

The director of the department of revenue, or any duly authorized agent thereof, shall have power to administer an oath to the person required to testify; and any person giving false testimony after the administration of such oath shall be guilty of perjury in the first degree.

If any person summoned as a witness before the department, or its authorized agent, fails or refuses to obey the summons, or refuses to testify or answer any material questions, or to produce any book, record, paper, or data when required to do so, the person is subject to proceedings for contempt, and the department shall thereupon institute contempt of court proceedings in the superior court of Thurston county or of the county in which such person resides. [1989 c 373 s 27; 1975 1st ex.s. c 278 s 79; 1961 c 15 s 82.32.110. Prior: 1935 c 180 s 194; RRS s 8370-194.]

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

RCW 82.32.117 Application for court approval of subpoena prior to issuance—No notice required. (1) The department or its duly authorized agent may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

- (a) State that an order is sought pursuant to this subsection;
- (b) Adequately specify the records, documents, or testimony; and

(c) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(2) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(3) The department or its duly authorized agent may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) This section does not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges.

(5) The department may not disclose any return or tax information, as defined in RCW 82.32.330, obtained in response to a subpoena issued under this section, except as authorized in RCW 82.32.330.

(6) A third party may not be held civilly liable for any harm resulting from that person's compliance with a subpoena issued under the authority of this section.

(7) The entire court file of any proceeding instituted under this section must be sealed and is not open to public inspection by any person except upon order of the court as authorized by law. [2011 c 174 s 401; 2010 c 22 s 4.]

Findings—Intent—2010 c 22: See note following RCW 51.04.040.

RCW 82.32.120 Oaths and acknowledgments. All officers empowered by law to administer oaths, the director of the department of revenue, and such officers as he or she may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person with respect to any return or report required by law or the rules and regulations of the department of revenue. [2013 c 23 s 323; 1975 1st ex.s. c 278 s 80; 1961 c 15 s 82.32.120. Prior: 1935 c 180 s 195; RRS s 8370-195.]

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

RCW 82.32.130 Notice and orders—Service. Notwithstanding any other law, any notice or order required by this title to be mailed to any taxpayer may be provided electronically as provided in RCW 82.32.135, served in the manner prescribed by law for personal service of summons and complaint in the commencement of actions in the superior courts of the state. However if the notice or order is mailed, it shall be addressed to the address of the taxpayer as shown by the records of the department, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. Failure of the taxpayer to receive such notice or order whether served, mailed, or provided electronically as provided in RCW 82.32.135 shall not release the taxpayer from any tax or any increases

or penalties thereon. [2007 c 111 s 108; 1979 ex.s. c 95 s 2; 1975 1st ex.s. c 278 s 81; 1967 c 237 s 20; 1961 c 15 s 82.32.130. Prior: 1935 c 180 s 196; RRS s 8370-196.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

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

RCW 82.32.135 Notice, assessment, other information—Electronic delivery. (1) Except as otherwise provided in this subsection, whenever the department is required to send any assessment, notice, or any other information to persons by regular mail, the department must instead provide the assessment, notice, or other information electronically. The department may implement the requirement in this subsection in phases. The department, for good cause, may waive the requirement in this subsection for any taxpayer. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(2) If the assessment, notice, or other information is subject to the confidentiality provisions of RCW 82.32.330, the department must use methods reasonably designed to protect the information from unauthorized disclosure. The provisions of this subsection (2) may be waived by a taxpayer. The waiver must be in writing and may be provided to the department electronically. A person may provide a waiver with respect to a particular item of information or may give a blanket waiver with respect to any item of information or certain items of information to be provided electronically. A blanket waiver will continue until revoked in writing by the taxpayer. Such revocation may be provided to the department electronically in a manner provided or approved by the department.

(3) Any assessment, notice, or other information provided by the department electronically to a person is deemed to be received by the taxpayer on the date that the department electronically sends the information to the person or electronically notifies the person that the information is available to be accessed by the person.

(4) This section also applies to any information that is not expressly required by statute to be sent by regular mail, but is customarily sent by the department using regular mail, to persons entitled to receive the information.

(5) (a) For purposes of this section, "good cause" includes the inability of the department to comply with this section for any reason, including lacking information necessary to send information to a person electronically or to electronically notify a person that information is available to be accessed by the person.

(b) "Good cause" also includes the inability of a person to receive or otherwise obtain information from the department electronically because:

(i) The person does not have the equipment or software necessary to enable the person to receive or otherwise obtain information from the department electronically;

(ii) The equipment or software necessary to enable the person to receive or otherwise obtain information from the department electronically is not functioning properly;

(iii) The person does not have access to the internet using the person's own equipment; or

(iv) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from receiving or otherwise obtaining information from the department electronically. [2009 c 176 s 1; 2007 c 111 s 113.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

RCW 82.32.140 Taxpayer quitting business—Liability of successor. (1) Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of more than fifty percent of the fair market value of either its tangible or intangible assets, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due, unless an extension is granted under RCW 82.32.080.

(2) Any person who becomes a successor shall withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until such time as the taxpayer shall produce a receipt from the department of revenue showing payment in full of any tax due or a certificate that no tax is due. If any tax is not paid by the taxpayer within ten days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of tax. If the fair market value of the assets acquired by a successor is less than fifty thousand dollars, the successor's liability for payment of the unpaid tax is limited to the fair market value of the assets acquired from the taxpayer. The burden of establishing the fair market value of the assets acquired is on the successor.

(3) The payment of any tax by a successor shall, to the extent thereof, be deemed a payment upon the purchase price; and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due the successor from the taxpayer.

(4) No successor shall be liable for any tax due from the person from whom the successor has acquired a business or stock of goods if the successor gives written notice to the department of revenue of such acquisition and no assessment is issued by the department of revenue within six months of receipt of such notice against the former operator of the business and a copy thereof mailed to the successor or provided electronically to the successor in accordance with RCW 82.32.135. [2008 c 181 s 503; 2007 c 111 s 109; 2003 1st sp.s. c 13 s 12; 1985 c 414 s 7; 1975 1st ex.s. c 278 s 82; 1961 c 15 s 82.32.140. Prior: 1957 c 88 s 1; 1935 c 180 s 197; RRS s 8370-197.]

Part headings not law—2008 c 181: See note following RCW 43.06.220.

Part headings not law—2007 c 111: See note following RCW 82.16.120.

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

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

RCW 82.32.145 Limited liability business entity—Terminated, dissolved, abandoned, insolvent—Collection of unpaid trust fund taxes. (1) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid trust fund taxes from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid trust fund taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local trust fund taxes.

(3) (a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the trust fund taxes due from the limited liability business entity.

(4) (a) Except as provided in this subsection (4) (a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the department.

(5) Persons described in subsection (3) (b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes is due to reasons beyond their control as determined by the department by rule.

(6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

(7) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

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

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.006.

(e) "Member" has the same meaning as in RCW 25.15.006, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(g) (i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection

(9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Trust fund taxes" means taxes collected from purchasers and held in trust under RCW 82.08.050, including taxes imposed under RCW 82.08.020, 82.08.150, and 82.51.010.

(i) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action. [2020 c 301 s 6; 2015 c 188 s 121; 2012 c 39 s 8; 2010 1st sp.s. c 23 s 801; 1995 c 318 s 2; 1987 c 245 s 1.]

Automatic expiration date and tax preference performance statement exemption—2020 c 301: See RCW 82.51.900.

Effective date—2015 c 188: See RCW 25.15.903.

Construction—Effective date—2012 c 39: See notes following RCW 82.08.155.

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.

Effective date—1995 c 318: See note following RCW 82.04.030.

RCW 82.32.150 Contest of tax—Prepayment required—Restraining orders and injunctions barred. All taxes, penalties, and interest shall be paid in full before any action may be instituted in any court to contest all or any part of such taxes, penalties, or interest. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax or penalty or any part thereof, except upon the ground that the assessment thereof was in violation of the Constitution of the United States or that of the state. [1961 c 15 s 82.32.150. Prior: 1935 c 180 s 198; RRS s 8370-198.]

RCW 82.32.160 Correction of tax—Administrative procedure—Conference—Determination by department. Any person having been issued a notice of additional taxes, delinquent taxes, interest, or penalties assessed by the department, may within thirty days after the issuance of the original notice of the amount thereof or within the period covered by any extension of the due date thereof granted by the department petition the department in writing for a correction of the amount of the assessment, and a conference for examination and review of the assessment. The petition shall set forth the reasons why the correction should be granted and the amount of the tax, interest, or penalties, which the petitioner believes to be due. The department shall promptly consider the petition and may grant or deny it. If denied, the petitioner shall be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department shall fix the time and place therefor and notify the petitioner thereof by mail or electronically as provided in RCW 82.32.135. After the conference the department may make such determination as may appear to it to be just and lawful and shall mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135. If no such petition is filed within the thirty-day period the assessment covered by the notice shall become final.

The procedures provided for herein shall apply also to a notice denying, in whole or in part, an application for a pollution control tax exemption and credit certificate, with such modifications to such procedures established by departmental rules and regulations as may be necessary to accommodate a claim for exemption or credit. [2007 c 111

s 110; 1989 c 378 s 22; 1975 1st ex.s. c 158 s 4; 1967 ex.s. c 26 s 49; 1963 ex.s. c 28 s 8; 1961 c 15 s 82.32.160. Prior: 1939 c 225 s 29, part; 1935 c 180 s 199, part; RRS s 8370-199, part.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Effective date—1975 1st ex.s. c 158: See note following RCW 82.34.050.

Effective date—1967 ex.s. c 26: See note following RCW 82.01.050.

RCW 82.32.170 Reduction of tax after payment—Petition—Conference—Determination by department. Any person, having paid any tax, original assessment, additional assessment, or corrected assessment of any tax, may apply to the department within the time limitation for refund provided in this chapter, by petition in writing for a correction of the amount paid, and a conference for examination and review of the tax liability, in which petition he or she shall set forth the reasons why the conference should be granted, and the amount in which the tax, interest, or penalty, should be refunded. The department shall promptly consider the petition, and may grant or deny it. If denied, the petitioner shall be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department shall notify the petitioner by mail, or electronically as provided in RCW 82.32.135, of the time and place fixed therefor. After the hearing, the department may make such determination as may appear to it just and lawful, and shall mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135. [2013 c 23 s 324; 2007 c 111 s 111; 1967 ex.s. c 26 s 50; 1961 c 15 s 82.32.170. Prior: 1951 1st ex.s. c 9 s 11; 1939 c 225 s 29, part; 1935 c 180 s 199, part; RRS s 8370-199, part.]

Part headings not law—2007 c 111: See note following RCW 82.16.120.

Effective date—1967 ex.s. c 26: See note following RCW 82.01.050.

RCW 82.32.180 Court appeal—Procedure. Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, having paid any tax as required and feeling aggrieved by the amount of the tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW or, if an application for refund has been made to the department within that time limitation, then within thirty days after rejection of the application, whichever time limitation is later. In the appeal the taxpayer shall set forth the amount of the tax imposed upon the taxpayer which the taxpayer concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein

specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. At trial, the burden shall rest upon the taxpayer to prove that the tax as paid by the taxpayer is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party may seek appellate review in the same manner as other civil actions are appealed to the appellate courts.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected. [1997 c 156 s 4; 1992 c 206 s 4; 1989 c 378 s 23; 1988 c 202 s 67; 1971 c 81 s 148; 1967 ex.s. c 26 s 51; 1965 ex.s. c 141 s 5; 1963 ex.s. c 28 s 9; 1961 c 15 s 82.32.180. Prior: 1951 1st ex.s. c 9 s 12; 1939 c 225 s 29, part; 1935 c 180 s 199, part; RRS s 8370-199, part.]

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

Severability—1988 c 202: See note following RCW 2.24.050.

Appeal to board of tax appeals, formal hearing: RCW 82.03.160.

RCW 82.32.190 Stay of collection pending suit—Interest. (1)

The department, by its order, may hold in abeyance the collection of tax from any taxpayer or any group of taxpayers when a question bearing on their liability for tax hereunder is pending before the courts. The department may impose such conditions as may be deemed just and equitable and shall require the payment of interest at the rate of three-quarters of one percent of the amount of the tax for each thirty days or portion thereof from the date upon which such tax became due until the date of payment.

(2) Interest imposed under this section for periods after January 1, 1997, shall be computed on a daily basis at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year. Interest for taxes held in abeyance under this section before January 1, 1997, but outstanding after January 1, 1997, shall not be recalculated but shall remain at three-quarters of one percent per each thirty days or portion thereof. [1996 c 149 s 3; 1971 ex.s. c 299 s 21; 1965 ex.s. c 141 s 6; 1961 c 15 s 82.32.190. Prior: 1937 c 227 s 19; 1935 c 180 s 200; RRS s 8370-200.]

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

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

RCW 82.32.200 Stay of collection—Bond—Interest. (1) When any assessment or additional assessment has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods as the department of revenue may by general regulation provide, of the whole or any part thereof, by filing with the department a bond in an amount, not exceeding twice the amount on which stay is desired, and with sureties as the department deems necessary, conditioned for the payment of the amount of the assessments, collection of which is stayed by the bond, together with the interest thereon at the rate of one percent of the amount of such assessment for each thirty days or portion thereof from the date the bond is filed until the date of payment.

(2) Interest imposed under this section after January 1, 1997, shall be computed on a daily basis on the amount of tax at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year. Interest for bonds filed before January 1, 1997, but outstanding after January 1, 1997, shall not be recalculated but shall remain at one percent per each thirty days or portion thereof. [1996 c 149 s 4; 1975 1st ex.s. c 278 s 83; 1961 c 15 s 82.32.200. Prior: 1935 c 180 s 201; RRS s 8370-201.]

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

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

RCW 82.32.210 Tax warrant—Filing—Lien—Effect. (1) If any fee, tax, increase, or penalty or any portion thereof is not paid within fifteen days after it becomes due, the department may issue a warrant in the amount of the unpaid sums, together with interest thereon from the date the warrant is issued until the date of payment. If, however, the department believes that a taxpayer is about to cease business, leave the state, or remove or dissipate the assets out of which fees, taxes or penalties might be satisfied and that any tax or penalty will not be paid when due, it may declare the fee, tax or penalty to be immediately due and payable and may issue a warrant immediately.

(a) Interest imposed before January 1, 1999, is computed at the rate of one percent of the amount of the warrant for each thirty days or portion thereof.

(b) Interest imposed after December 31, 1998, is computed on a daily basis on the amount of outstanding tax or fee at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year. As used in this subsection, "fee" does not include an administrative filing fee such as a court filing fee and warrant fee.

(2) Except as provided in RCW 82.32.212, the department must file a copy of the warrant with the clerk of the superior court of any county of the state in which real and/or personal property of the taxpayer may be found. The clerk is entitled to a filing fee under RCW 36.18.012(10). Upon filing, the clerk will enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the fee, tax or portion thereof and any increases and penalties for which the warrant is issued and the date when the copy is filed. The amount of the warrant so docketed is a specific lien upon all goods, wares, merchandise, fixtures, equipment, or other personal property used in the conduct of the business of the taxpayer against whom the warrant is issued, including property owned by third persons who have a beneficial interest, direct or indirect, in the operation of the business, and no sale or transfer of the personal property in any way affects the lien.

(3) The lien is not superior, however, to bona fide interests of third persons that vested before the filing of the warrant when the third persons do not have a beneficial interest, direct or indirect, in the operation of the business, other than to secure payment of a debt or to receive a regular rental on equipment. The phrase "bona fide interests of third persons" does not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the warrant who executed the chattel or real property mortgage or the document evidencing the credit transaction.

(4) The amount of the warrant so docketed is also a lien upon the title to and interest in all other real and personal property of the taxpayer against whom it is issued the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed is sufficient to support the issuance of writs of garnishment in favor of the state as provided by law for judgments wholly or partially unsatisfied. [2011 c 131 s 1; 2001 c 146 s 12; 1998 c 311 s 8; 1997 c 157 s 3; 1987 c 405 s 15; 1983 1st ex.s. c 55 s 8; 1967 ex.s. c 89 s 3; 1961 c 15 s 82.32.210. Prior: 1955 c 389 s 38; prior: 1951 1st ex.s. c 9 s 13; 1949 c 228 s 225, part; 1937 c 227 s 20, part; 1935 c 180 s 202, part; Rem. Supp. 1949 s 8370-202, part.]

Effective date—2011 c 131: See note following RCW 82.32.212.

Severability—1987 c 405: See note following RCW 70A.15.3500.

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

RCW 82.32.212 Tax warrant—Notice of lien. (1) To secure payment of a tax warrant issued by the department under RCW 82.32.210, the department may issue a notice of lien against any real property in which the taxpayer against whom the warrant was issued has an ownership interest, if the total amount for which the warrant was issued exceeds twenty-five thousand dollars and the department determines that issuing the notice of lien would best protect the state's interest in collecting the amount due on the warrant. The department must file the notice of lien with the recording officer of

the county where the real property is located. The recording officer is entitled to a filing fee as provided under RCW 36.18.010.

(2) (a) Except as otherwise provided in this section, recording a notice of lien as authorized in this section is in lieu of filing with the clerk of the superior court a copy of the warrant secured by the notice of lien.

(b) Notwithstanding (a) of this subsection (2), the department may file with the superior court a warrant that is secured by a notice of lien under this section if: (i) The department determines that filing the warrant is in the best interest of collecting the amount due on the tax warrant; or (ii) the warrant remains unpaid six months after the notice of lien was issued.

(3) If a warrant has been filed with the clerk of the superior court, the department may issue and record a notice of lien against real property of the taxpayer and file a conditional satisfaction of the warrant with the clerk of the superior court of the county in which the warrant was filed, if the department determines that such actions are in the best interest of collecting the amount due on the warrant.

(a) A warrant for which a conditional satisfaction is filed will continue to accrue interest on the unpaid balance as provided in RCW 82.32.210.

(b) (i) The department may refile a warrant for which a conditional satisfaction has been filed if: (A) The department determines that refiling the warrant is in the best interest of collecting the amount due on the warrant; or (B) the warrant remains unpaid six months after the notice of lien was issued.

(ii) A warrant is refiled in the same manner as it was originally filed.

(c) A warrant that is refiled as provided in this subsection (3) reinstates the liens provided under RCW 82.32.210 as of the date the warrant is refiled.

(d) For the purposes of this subsection (3), a "conditional satisfaction" is a document issued by the department, which, when filed with the clerk of the superior court of the county in which the warrant was filed, releases the liens provided under RCW 82.32.210 without prejudice to refile the warrant at a later date.

(4) When a taxpayer has requested the department to use the collection authority under this section, in order to determine if the issuance of a notice of lien would best protect the state's interest in collecting the amount due on the warrant, the department may require the taxpayer to:

(a) Provide, at the taxpayer's expense, the department with a current abstract of title as defined by RCW 48.29.010 from a title insurer that possesses a certificate of authority issued under Title 48 RCW; and

(b) Authorize the department to obtain the taxpayer's current credit report.

(5) A notice of lien issued under this section must include the following information:

(a) The name of the taxpayer who has an interest in the real property against which the notice of lien is filed;

(b) The taxpayer's tax registration number issued as provided in RCW 82.32.030;

(c) The number of the warrant issued by the department;

(d) The amount for which the warrant was issued;

(e) The legal description, tax parcel number assigned under RCW 84.40.160, and the street address, if available, of the real property against which the notice of lien is issued; and

(f) Any other information the department determines would be useful.

(6) The notice of lien issued under this section is superior to all other liens and encumbrances, except:

(a) Bona fide interests of third persons that had vested prior to the recording of the notice of lien, if the third persons do not have a beneficial interest, direct or indirect, in the operation of the taxpayer's business, other than the securing of the payment of a debt or the receiving of a regular rental on equipment. For purposes of this subsection, "bona fide interests of third persons" has the same meaning as in RCW 82.32.210; and

(b) Property taxes and special assessments against the property.

(7) The department must release a notice of lien issued under this section as soon as practicable after receipt of payment in full of the amount due on the warrant secured by the notice of lien, including interest accrued as provided in RCW 82.32.210(1) and all recording fees claimed by the recording officer for the recording of the notice of lien and the release of the lien.

(8) The department must release a notice of lien issued under this section within fourteen days if the notice of lien was issued in error. [2011 c 131 s 2.]

Effective date—2011 c 131: "This act takes effect January 1, 2012." [2011 c 131 s 3.]

RCW 82.32.215 Revocation of certificate of registration. (1)

The department may, by order, revoke the certificate of registration of a taxpayer for any of the following reasons:

(a) A warrant issued under this chapter is not paid within thirty days after it has been filed with the clerk of the superior court;

(b) The taxpayer is delinquent, for three consecutive reporting periods, in the transmission to the department of retail sales tax collected by the taxpayer; or

(c) (i) (A) The taxpayer was convicted of violating RCW 82.32.290(4) and continues to engage in business without fully complying with RCW 82.32.290(4) (b) (i) through (iii); or

(B) A person convicted of violating RCW 82.32.290(4) is an owner, officer, director, partner, trustee, member, or manager of the taxpayer, and the person and taxpayer have not fully complied with RCW 82.32.290(4) (b) (i) through (iii).

(ii) For the purposes of this subsection (1) (c), the terms "manager," "member," and "officer" mean the same as defined in RCW 82.32.145.

(2) If the department enters a final order revoking a taxpayer's certificate of registration, a copy of the order must, if practicable, be posted in a conspicuous place at the main entrance to the taxpayer's place of business. The department may also post a final order revoking a taxpayer's certificate of registration in any public facility, such as a courthouse or post office, as may be allowed by the public entity that owns or occupies the facility. A final order posted at the taxpayer's place of business must remain posted until such time as the taxpayer is eligible to have its certificate of

registration reinstated as provided in subsection (3) of this section or has abandoned the premises. A taxpayer will not be deemed to have abandoned the premises if the taxpayer or any person with an ownership interest in the taxpayer continues to operate a substantially similar type of business under a different legal entity at the same location.

(3) Any certificate revoked under subsection (1) of this section may not be reinstated, nor may a new certificate of registration be issued to the taxpayer, until:

(a) The amount due on the warrant has been paid, or provisions for payment satisfactory to the department have been entered, and until the taxpayer has deposited with the department security for payment of any taxes, increases, and penalties, due or which may become due in an amount and under such terms and conditions as the department of revenue may require, but the amount of the security may not be greater than one-half the estimated average annual liability of the taxpayer; or

(b) The taxpayer and, if applicable, the owner, officer, director, partner, trustee, member, or manager of the taxpayer who was convicted of violating RCW 82.32.290(4) are in full compliance with RCW 82.32.290(4)(b)(i) through (iii), if the certificate of registration was revoked under the provisions of subsection (1)(c) of this section. [2013 c 309 s 1; 1998 c 311 s 9; 1983 1st ex.s. c 55 s 9.]

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

RCW 82.32.220 Execution of warrant—Levy upon property—Satisfaction. The department of revenue may issue an order of execution, pursuant to a filed warrant, directed to the sheriff of the county in which the warrant has been filed, commanding the sheriff to levy upon and sell the real and/or personal property of the taxpayer found within the sheriff's county, or so much thereof as may be necessary, for the payment of the amount of the warrant, plus the cost of executing the warrant, and return the warrant to the department of revenue and pay to it the money collected by virtue thereof within sixty days after the receipt of the warrant. The sheriff shall thereupon proceed upon the same in all respects and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgments of the superior court.

The sheriff shall be entitled to fees as provided by law for the sheriff's services in levying execution on a superior court judgment and the clerk shall be entitled to a filing fee as provided by law, which shall be added to the amount of the warrant.

The proceeds received from any sale shall be credited upon the amount due under the warrant and when the final amount due is received, together with interest, penalties, and costs, the judgment docket shall show the claim for taxes to be satisfied and the clerk of the court shall so note upon the docket. Any surplus received from any sale of property shall be paid to the taxpayer or to any lienholder entitled thereto. If the return on the warrant shows that the same has not been satisfied in full, the amount of the deficiency shall remain the same as a judgment against the taxpayer which may be collected in the same manner as the original amount of the warrant. [1998 c 311 s 10; 1983 1st ex.s. c 55 s 10; 1961 c 304 s 6; 1961 c 15 s 82.32.220.]

Prior: 1955 c 389 s 39; prior: 1951 1st ex.s. c 9 s 14; 1949 c 228 s 25, part; 1937 c 227 s 20, part; 1935 c 180 s 202, part; Rem. Supp. 1949 s 8370-202, part.]

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

Fee for filing tax warrant by county clerk: RCW 36.18.020.

RCW 82.32.230 Agent of the department of revenue may execute.

In the discretion of the department of revenue, an order of execution of like terms, force, and effect may be issued and directed to any agent of the department authorized to collect taxes, and in the execution thereof such agent shall have all the powers conferred by law upon sheriffs, but shall not be entitled to any fee or compensation in excess of the actual expenses paid in the performance of such duty, which shall be added to the amount of the warrant. [1983 1st ex.s. c 55 s 11; 1975 1st ex.s. c 278 s 84; 1961 c 15 s 82.32.230. Prior: 1949 c 228 s 25, part; 1937 c 227 s 20, part; 1935 c 180 s 202, part; Rem. Supp. 1949 s 8370-202, part.]

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

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

RCW 82.32.235 Notice and order to withhold and deliver property due or owned by taxpayer—Bond—Judgment by default. (1) In addition to the remedies provided in this chapter the department is authorized to issue to any person, including the department, a notice and order to withhold and deliver property of any kind whatsoever when there is reason to believe that there is in the possession of such person, property which is or will become due, owing, or belonging to any taxpayer against whom a warrant has been filed.

(2) The sheriff of the county where the service is made, or his or her deputy, or any duly authorized representative of the department may personally serve the notice and order to withhold and deliver upon the person to whom it is directed or may do so by certified mail, with return receipt requested. Upon written consent of the person to be served, a notice and order to withhold and deliver issued under subsection (1) of this section may be served electronically.

(3) (a) The department is authorized to issue a notice and order to withhold and deliver to any financial institution in the form of a listing of all or a portion of the unsatisfied tax warrants filed under this chapter and outstanding warrants under RCW 49.48.086 with the clerk of the superior court of a county of the state, except tax warrants subject to a payment agreement, which is not in default, between the department and the taxpayer. The department may also issue a notice and order to withhold and deliver in the form authorized in this subsection (3) (a) to itself or any other person upon that person's written consent.

(b) The department may serve the notice and order to withhold and deliver authorized under this subsection electronically. The remedy in

this subsection (3) is in addition to any other remedies authorized by law.

(c) No more than one notice and order to withhold and deliver under this subsection (3) may be served on the same person in a calendar month except upon the person's written consent.

(d) A notice and order to withhold and deliver served on a financial institution under this subsection (3) must include the federal taxpayer identification number of each taxpayer listed in the notice.

(e) For purposes of this subsection, "financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

(f) The department may provide a financial institution relief from a notice and order to withhold and deliver in the form provided under this subsection (3) upon the request of the financial institution. The department must consider the size, customer base, and geographic location of the financial institution when considering whether to provide relief. The department must serve any financial institution so relieved under subsection (1) of this section.

(4) Any person who has been served with a notice and order to withhold and deliver under subsection (1) of this section must answer the notice within twenty days, exclusive of the day of service. Any person who has been served with a notice and order to withhold and deliver under subsection (3) of this section must answer the notice within thirty days, exclusive of the day of service. The answer must be in writing, under oath if required by the department, and include true answers to the matters inquired of in the notice. Any person served under subsection (3) of this section may answer in aggregate within thirty days, but must answer separately as to each taxpayer listed and specify any property by taxpayer which is delivered. The department must allow any person served electronically as authorized in subsection (2) or (3) of this section to answer the notice and order to withhold and deliver electronically in a format provided or approved by the department.

(5) In the event there is in the possession of any person served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property must be delivered immediately to the department of revenue or its duly authorized representative upon demand. The department must hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. Instead of delivering the property to the department or the department's duly authorized representative, the person may furnish a bond satisfactory to the department conditioned upon final determination of liability.

(6) Should any person, having been served with a notice and order to withhold and deliver, fail to answer the notice and order to withhold and deliver within the time prescribed in this section or otherwise fail to comply with the duties imposed in this section, the department may bring a proceeding, in the superior court of Thurston county or of the county in which service of the notice was made, to enforce the notice and order to withhold and deliver. The court may render judgment by default against such person for the full amount claimed by the department in the notice and order to withhold and deliver or may grant such other relief as the court deems just, together with costs.

(7) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes any agency, department, or institution of the state. [2014 c 210 s 2; 2014 c 97 s 104; 2009 c 562 s 1; 1987 c 208 s 1; 1975 1st ex.s. c 278 s 85; 1971 ex.s. c 299 s 22; 1963 ex.s. c 28 s 11.]

Reviser's note: This section was amended by 2014 c 97 s 104 and by 2014 c 210 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—2009 c 562: "(1) The legislature finds that the state's vital interest in collecting lawfully due taxes must be balanced against the burden of complying with section 1(3) of this act, particularly for small financial institutions.

(2)(a) Therefore, the legislature directs the department of revenue to work with interested financial institutions to develop policies regarding the frequency of service under section 1(3) of this act and under what circumstances a notice and order to withhold and deliver will contain only a partial list of unsatisfied tax warrants eligible to be included in the notice. The policies should take into account the size of a financial institution, location of a financial institution, number of business accounts that a financial institution has, and any other factors the department may choose to consider.

(b) The department is also directed to develop a policy regarding the information to be contained in a notice and order to withhold and deliver to ensure that financial institutions can accurately match their records with the names of tax debtors.

(3) The department must report to the fiscal committees of the legislature on the implementation of section 1(3) of this act by January 1, 2012. The report should describe the policies developed by the department as directed in subsection (2) of this section. The report should also describe any difficulties the department encountered in implementing section 1(3) of this act and any suggestions the department may have to improve the effectiveness of section 1(3) of this act, reduce the burden on financial institutions in complying with section 1(3) of this act, or both." [2009 c 562 s 2.]

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

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

RCW 82.32.237 Notice and order to withhold and deliver—Continuing lien—Effective date. Upon service, the notice and order to withhold and deliver shall constitute a continuing lien on property of the taxpayer and upon wages due, owing, or belonging to the taxpayer. The department shall include in the caption of the notice and order to withhold and deliver "continuing lien." The effective date of a notice and order to withhold and deliver served under RCW 82.32.235 shall be the date of service thereof. [1987 c 208 s 2.]

RCW 82.32.240 Tax constitutes debt to the state—Priority of lien. Any tax due and unpaid and all increases and penalties thereon, shall constitute a debt to the state and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to any and all other existing remedies.

In all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, involving any taxpayer who is, or decedent who was, engaging in business, the claim of the state for said taxes and all increases and penalties thereon shall be a lien upon all real and personal property of the taxpayer, and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and in all such cases it shall be the duty of all administrators, executors, guardians, receivers, trustees in bankruptcy or assignees for the benefit of creditors, to notify the department of revenue of such administration, receivership or assignment within sixty days from the date of their appointment and qualification.

The lien provided for by this section shall attach as of the date of the assignment for the benefit of creditors or of the initiation of the probate, insolvency, or bankruptcy proceedings: PROVIDED, That this sentence shall not be construed as affecting the validity or priority of any earlier lien that may have attached previously in favor of the state under any other section of this title.

Any administrator, executor, guardian, receiver or assignee for the benefit of creditors not giving the notification as provided for above shall become personally liable for payment of the taxes and all increases and penalties thereon to the extent of the value of the property subject to administration that otherwise would have been available for the payment of such taxes, increases, and penalties by the administrator, executor, guardian, receiver, or assignee.

As used in this section, "probate" includes the nonprobate claim settlement procedure under chapter 11.42 RCW, and "executor" and "administrator" includes any notice agent acting under chapter 11.42 RCW. [1994 c 221 s 69; 1988 c 64 s 21; 1975 1st ex.s. c 278 s 86; 1961 c 15 s 82.32.240. Prior: 1949 c 228 s 26; 1935 c 180 s 203; Rem. Supp. 1949 s 8370-203.]

Effective dates—1994 c 221: See note following RCW 11.100.035.

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

RCW 82.32.245 Search for and seizure of property—Warrant—Procedure. (1) When there is probable cause to believe that there is property within this state, not otherwise exempt from process or execution, in the possession or control of any taxpayer against whom a tax warrant has been filed which remains unsatisfied, any judge of the superior court or district court in the county in which such property is located may, upon the request of the sheriff or agent of the department authorized to collect taxes, issue a warrant directed to such officers commanding the search for and seizure of the property described in the request for warrant.

(2) Application for, issuance, and execution and return of the warrant authorized by this section and for return of any property

seized shall be in accordance with the criminal rules of the superior court and the justice court.

(3) The sheriff or agent of the department shall levy execution upon property seized pursuant to this section as provided in RCW 82.32.220 and 82.32.230.

(4) Nothing in this section shall require the application for and issuance of any warrant not otherwise required by law. [1985 c 414 s 3.]

RCW 82.32.260 Payment condition to dissolution or withdrawal of corporation. In the case of any corporation organized under the laws of this state, the courts shall not enter or sign any decree of dissolution, nor shall the secretary of state file in his or her office any certificate of dissolution, and in the case of any corporation organized under the laws of another jurisdiction and admitted to do business in this state, the secretary of state shall withhold the issuance of any certificate of withdrawal, until proof, in the form of a certificate from the department of revenue, has been furnished by the applicant for such dissolution or withdrawal, that every license fee, tax, increase, or penalty has been paid or provided for. [2013 c 23 s 325; 1975 1st ex.s. c 278 s 87; 1961 c 15 s 82.32.260. Prior: 1935 c 180 s 204; RRS s 8370-204.]

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

RCW 82.32.265 Use of collection agencies to collect taxes outside the state. (1) The department may retain, by written contract, collection agencies licensed under chapter 19.16 RCW or licensed under the laws of another state or the District of Columbia for the purpose of collecting from sources outside the state of Washington taxes including interest and penalties thereon imposed under this title and RCW 84.33.041.

(2) Only accounts represented by tax warrants filed in the superior court of a county in the state as provided by RCW 82.32.210 may be assigned to a collection agency, and no such assignment may be made unless the department has previously notified or has attempted to notify the taxpayer of his or her right to petition for correction of assessment within the time provided and in accordance with the procedures set forth in chapter 82.32 RCW.

(3) Collection agencies assigned accounts for collection under this section shall have only those remedies and powers that would be available to them as assignees of private creditors. However, nothing in this section limits the right to enforce the liability for taxes lawfully imposed under the laws of this state in the courts of another state or the District of Columbia as provided by the laws of such jurisdictions and RCW 4.24.140 and 4.24.150.

(4) The account of the taxpayer shall be credited with the amounts collected by a collection agency before reduction for reasonable collection costs, including attorneys fees, that the department is authorized to negotiate on a contingent fee or other basis. [1987 c 80 s 5; 1985 c 414 s 4.]

RCW 82.32.270 Accounting period prescribed. The taxes imposed hereunder, and the returns required therefor, shall be upon a calendar year basis; but, if any taxpayer in transacting his or her business, keeps books reflecting the same on a basis other than the calendar year, he or she may, with consent of the department of revenue, make his or her returns, and pay taxes upon the basis of his or her accounting period as shown by the method of keeping the books of his or her business. [2013 c 23 s 326; 1975 1st ex.s. c 278 s 88; 1961 c 15 s 82.32.270. Prior: 1935 c 180 s 205; RRS s 8370-205.]

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

RCW 82.32.280 Tax declared additional. Taxes imposed hereunder shall be in addition to any and all other licenses, taxes, and excises levied or imposed by the state or any municipal subdivision thereof. [1961 c 15 s 82.32.280. Prior: 1935 c 180 s 206; RRS s 8370-206.]

RCW 82.32.290 Unlawful acts—Penalties. (1)(a) It is unlawful:

- (i) For any person to engage in business without having obtained a certificate of registration as provided in this chapter;
- (ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business without having obtained a certificate of registration as provided in this chapter;
- (iii) For any person to tear down or remove any order or notice posted by the department in violation of this chapter;
- (iv) For any person to aid or abet another in any attempt to evade the payment of any tax or any part thereof;
- (v) For any purchaser to fraudulently sign or furnish to a seller documentation authorized under RCW 82.04.470 without intent to resell the property purchased or with intent to otherwise use the property in a manner inconsistent with the claimed wholesale purchase; or
- (vi) For any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the department or its duly authorized agent; or to fail or refuse to permit the inspection or appraisal of any property by the department or its duly authorized agent; or to refuse to offer testimony or produce any record as required.

(b) Any person violating any of the provisions of this subsection (1) is guilty of a gross misdemeanor in accordance with chapter 9A.20 RCW.

(2)(a) It is unlawful:

- (i) For any person to engage in business after revocation of a certificate of registration unless the person's certification of registration has been reinstated;
- (ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business after revocation of a certificate of registration unless the company's certificate of registration has been reinstated; or
- (iii) For any person to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or part thereof.

(b) Any person violating any of the provisions of this subsection (2) is guilty of a class C felony in accordance with chapter 9A.20 RCW.

(3) In addition to the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, is guilty of the offense of perjury in the second degree and must be punished, upon conviction thereof, by a fine of not more than one thousand dollars.

(4) (a) It is unlawful for any person to knowingly sell, purchase, install, transfer, manufacture, create, design, update, repair, use, possess, or otherwise make available, in this state, any automated sales suppression device or phantom-ware. However, it is not unlawful for persons to possess or use automated sales suppression devices or phantom-ware as authorized in RCW 82.32.670(6).

(b) It is unlawful for any person who has been convicted of violating this section to engage in business, or participate in any business as an owner, officer, director, partner, trustee, member, or manager of the business, unless:

(i) All taxes, penalties, and interest lawfully due are paid;

(ii) The person pays in full all penalties and fines imposed on the person for violating this section; and

(iii) The person, if the person is engaging in business subject to tax under this title, or the business in which the person participates, enters into a written agreement with the department for the electronic monitoring of the business's sales, by a method acceptable to the department, for five years at the business's expense.

(c) (i) Any person violating the provisions of this subsection, including material breach of the monitoring agreement under (b) (iii) of this subsection, is guilty of a class C felony in accordance with chapter 9A.20 RCW and, as applicable, (c) (ii) of this subsection.

(ii) Any person violating the provisions of this subsection by furnishing an automated sales suppression device or phantom-ware to another person or by updating or repairing another person's automated sales suppression device or phantom-ware is, in addition to the punishments prescribed in chapter 9A.20 RCW, subject to a mandatory fine fixed by the court in an amount equal to the greater of ten thousand dollars, the defendant's gain from the commission of the crime, or the state's loss from the commission of the crime. For purposes of this subsection (4) (c) (ii), "loss" means the total of all taxes, penalties, and interest certified by the department to be due, as of the date of sentencing, as a result of any violation of the provisions of this subsection by a person using the automated sales suppression device or phantom-ware obtained from, or updated or repaired by, the defendant, which results in the defendant's conviction for violating the provisions of this subsection.

(d) For the purposes of this subsection (4), the terms "manager," "member," and "officer" have the same meaning as in RCW 82.32.145.

(e) The definitions in RCW 82.32.670 apply to this subsection (4).

(5) All penalties or punishments provided in this section are in addition to all other penalties provided by law.

(6) For the purposes of this section, "return" has the same meaning as in RCW 82.32.050. [2022 c 41 s 3; 2013 c 309 s 2; 2010 c 112 s 11; 2009 c 563 s 211; 1985 c 414 s 2; 1975 1st ex.s. c 278 s 89; 1961 c 15 s 82.32.290. Prior: 1935 c 180 s 207; RRS s 8370-207.]

Effective date—2010 c 112 ss 2, 3, 11, 12, and 15: See note following RCW 82.32.780.

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.

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

RCW 82.32.291 Reseller permit—Unlawful use—Penalty—Rules. (1) Except as otherwise provided in this section, if any buyer improperly uses a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase items or services at retail without payment of sales tax that was legally due on the purchase, the department must assess against that buyer a penalty of fifty percent of the tax due, in addition to all other taxes, penalties, and interest due, on the improperly purchased item or service.

(2) The department must waive the penalty imposed under subsection (1) of this section if it finds that the use of the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 was due to circumstances beyond the taxpayer's control or if the reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 was properly used for purchases for dual purposes. The department must define by rule what circumstances are considered to be beyond the taxpayer's control.

(3) A buyer that purchases items or services at retail without payment of sales tax legally due on the purchase is deemed to have improperly used a reseller permit number, reseller permit, or other documentation authorized under RCW 82.04.470 to purchase the items or services without payment of sales tax and is subject to the penalty in subsection (1) of this section if the buyer:

(a) Furnished to the seller a reseller permit number, a reseller permit or copy of a reseller permit, or other documentation authorized under RCW 82.04.470 to avoid payment of sales tax legally due on the purchase; or

(b) Made the purchase from a seller that had previously used electronic means to verify the validity of the buyer's reseller permit with the department and, as a result, did not require the buyer to provide a copy of its reseller permit or furnish other documentation authorized under RCW 82.04.470 to document the wholesale nature of the purchase. In such cases, the buyer bears the burden of proving that it did not improperly use its reseller permit to make the purchase without payment of sales tax. [2010 c 112 s 12. Prior: 2009 c 563 s 212; 2009 c 289 s 4; 1993 sp.s. c 25 s 703.]

Effective date—2010 c 112 ss 2, 3, 11, 12, and 15: See note following RCW 82.32.780.

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.

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

Seller's permit and uniform exemption certificate: RCW 82.04.470 and 82.08.130.

RCW 82.32.300 Department of revenue to administer—Chapters enforced by liquor and cannabis board. (1) The department must administer this chapter and such other provisions of the Revised Code of Washington as specifically provided by law. To that end, the department may prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment, and collection of taxes and penalties imposed thereunder.

(2) (a) The department may make and publish rules, not inconsistent therewith, necessary to enforce provisions of this chapter and such other provisions of the Revised Code of Washington that the department is empowered by law to enforce. The liquor and cannabis board may make and publish rules necessary to enforce chapters 82.24, 82.26, and 82.25 RCW.

(b) Rules adopted by the department or liquor and cannabis board under the authority of this subsection have the same force and effect as if specifically included in law, unless declared invalid by the judgment of a court of record not appealed from.

(3) The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees must be fixed by the department and charged to the proper appropriation for the department.

(4) The department must exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper. [2020 c 139 s 39; 2019 c 445 s 209; 1997 c 420 s 9; 1983 c 3 s 222; 1975 1st ex.s. c 278 s 90; 1961 c 15 s 82.32.300. Prior: 1935 c 180 s 208, part; RRS s 8370-208, part.]

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

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

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

RCW 82.32.310 Immunity of officers, agents, etc., of the department of revenue acting in good faith. When recovery is had in any suit or proceeding against an officer, agent, or employee of the department of revenue for any act done by him or her or for the recovery of any money exacted by or paid to him or her and by him or her paid over to the department, in the performance of his or her official duty, and the court certifies that there was probable cause

for the act done by such officer, agent, or employee, or that he or she acted under the direction of the department or an officer thereof, no execution shall issue against such officer, agent, or employee, but the amount so recovered shall, upon final judgment, be paid by the department as an expense of operation. [2013 c 23 s 327; 1975 1st ex.s. c 278 s 91; 1961 c 15 s 82.32.310. Prior: 1935 c 180 s 208, part; RRS s 8370-208, part.]

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

RCW 82.32.320 Revenue to state treasurer—Allocation for return or payment for less than the full amount due. The department of revenue, on the next business day following the receipt of any payments hereunder, shall transmit them to the state treasurer, taking his or her receipt therefor. If a return or payment is submitted with less than the full amount of all taxes, interest, and penalties due, the department may allocate payments among applicable funds so as to minimize administrative costs to the extent practicable. [1995 c 318 s 7; 1975 1st ex.s. c 278 s 92; 1961 c 15 s 82.32.320. Prior: 1935 c 180 s 209; RRS s 8370-209.]

Effective date—1995 c 318: See note following RCW 82.04.030.

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

RCW 82.32.330 Disclosure of return or tax information. (1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this

section. Except as provided by RCW 82.32.410, nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under this title or chapter 83.100 RCW is a party in the proceeding;

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding; or

(iii) Brought by the department under RCW 18.27.040 or 19.28.071;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department is not required to disclose any information under this subsection if a taxpayer has entered a deferred payment arrangement with the department for the payment of a warrant that has not been filed and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(e) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state

agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(f) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

(g) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought;

(h) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(i) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasury, and the United States department of transportation, or any authorized representative of these federal agencies, for official purposes;

(j) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(k) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, reseller permit numbers and the expiration date and status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(l) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is maintained by a court of record and is not otherwise prohibited from disclosure;

(m) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(n) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the

department for a filed tax warrant, judgment, or lien against the real property;

(o) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(p) Disclosing real estate excise tax affidavit forms filed under RCW 82.45.150 in the possession of the department, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

(q) Disclosing to local taxing jurisdictions the identity of sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for which relief is granted;

(r) Disclosing such return or tax information to the court in respect to the department's application for a subpoena under RCW 82.32.117;

(s) Disclosing to a person against whom the department has asserted liability under RCW 83.100.120 return or tax information pertaining to that person's liability for tax under chapter 83.100 RCW;

(t) Disclosing such return or tax information to the streamlined sales tax governing board, member states of the streamlined sales tax governing board, or authorized representatives of such board or states, for the limited purposes of:

(i) Conducting on behalf of member states sales and use tax audits of taxpayers; or

(ii) Auditing certified service providers or certified automated systems providers;

(u) Disclosing any such return or tax information when the disclosure is specifically authorized under any other section of the Revised Code of Washington;

(v) Disclosing to an individual to whom the department has issued an assessment under RCW 82.32.145 for unpaid trust fund taxes of a defunct or insolvent entity, return or tax information of that entity pertaining to those unpaid trust fund taxes;

(w) Disclosing any such return or tax information pursuant to a federal grand jury subpoena or subpoena issued by a United States attorney, only to be used in the criminal investigation and related court proceedings, or in the court proceeding for which the return or tax information originally was sought; or

(x) Disclosing any return or tax information to an individual when the return or tax information is related directly to that person's individual liability, as part of a marital community, for amounts due under a warrant issued under the authority of RCW 59.30.090 or 82.32.210.

(4) (a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals,

check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued under RCW 82.32.117 does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena under RCW 82.32.117 may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3) (e), (f), (g), (h), (i), (m), (v), and (w) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter. [2022 c 56 s 9; 2021 c 145 s 18; 2011 c 174 s 404. Prior: 2010 c 112 s 13; 2010 c 106 s 104; prior: 2009 c 563 s 213; 2009 c 309 s 2; 2008 c 81 s 11; 2007 c 6 s 1502; 2006 c 177 s 7; prior: 2005 c 326 s 1; 2005 c 274 s 361; prior: 2000 c 173 s 1; 2000 c 106 s 1; 1998 c 234 s 1; 1996 c 184 s 5; 1995 c 197 s 1; 1991 c 330 s 1; 1990 c 67 s 1; 1985 c 414 s

9; 1984 c 138 s 12; 1969 ex.s. c 104 s 1; 1963 ex.s. c 28 s 10; 1961 c 15 s 82.32.330; prior: 1943 c 156 s 12; 1935 c 180 s 210; Rem. Supp. 1943 s 8370-210.]

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

Application—2010 c 106 ss 104 and 111: "Sections 104(3) (a) (i) and (s) and 111 of this act apply to return or tax information in respect to the tax imposed under chapter 83.100 RCW in the possession of the department of revenue on or after July 1, 2010." [2010 c 106 s 403.]

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.

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

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

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

Effective date—2006 c 177 ss 1-9: See note following RCW 82.04.250.

Effective date—2000 c 173: "This act takes effect July 1, 2000." [2000 c 173 s 2.]

Effective date—2000 c 106: "This act takes effect July 1, 2000." [2000 c 106 s 13.]

Effective date—1996 c 184: See note following RCW 46.16A.030.

Effective date—1995 c 197: "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 197 s 2.]

RCW 82.32.340 Chargeoff of uncollectible taxes—Destruction of files and records. (1) Any tax or penalty which the department of revenue deems to be uncollectible may be transferred from accounts receivable to a suspense account and cease to be accounted an asset. Any item transferred shall continue to be a debt due the state from the taxpayer and may at any time within twelve years from the filing of a warrant covering such amount with the clerk of the superior court be transferred back to accounts receivable for the purpose of collection. The department of revenue may charge off as finally uncollectible any tax or penalty which it deems uncollectible at any time after twelve years from the date that the last tax return for the delinquent taxpayer was or should have been filed if the department of

revenue is satisfied that there are no cost-effective means of collecting the tax or penalty.

After any tax or penalty has been charged off as finally uncollectible under the provisions of this section, the department of revenue may destroy any or all files and records pertaining to the liability of any taxpayer for such tax or penalty.

The department of revenue, subject to the approval of the state records committee, may at the expiration of five years after the close of any taxable year, destroy any or all files and records pertaining to the tax liability of any taxpayer for such taxable year, who has fully paid all taxes, penalties and interest for such taxable year, or any preceding taxable year for which such taxes, penalties and interest have been fully paid. In the event that such files and records are reproduced on film pursuant to RCW 40.20.020 for use in accordance with RCW 40.20.030, the original files and records may be destroyed immediately after reproduction and such reproductions may be destroyed at the expiration of the above five-year period, subject to the approval of the state records committee.

(2) Notwithstanding subsection (1) of this section, the department may charge off any tax within its jurisdiction to collect that is owed by a taxpayer, including any penalty or interest thereon, if the department ascertains that the cost of collecting that tax would be greater than the total amount which is owed or likely in the near future to be owed by, and collectible from, the taxpayer. [1989 c 78 s 3; 1985 c 414 s 1; 1979 ex.s. c 95 s 3; 1979 c 151 s 184; 1967 ex.s. c 89 s 4; 1965 ex.s. c 141 s 7; 1961 c 15 s 82.32.340. Prior: 1955 c 389 s 40; 1939 c 225 s 30; 1937 c 227 s 21; 1935 c 180 s 210(a); RRS s 8370-210a.]

RCW 82.32.350 Closing agreements authorized. The department may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the preceding chapters of this title, or any tax in respect to which this section is specifically made applicable, for any taxable period or periods. [2017 c 323 s 107; 1971 ex.s. c 299 s 23; 1961 c 15 s 82.32.350. Prior: 1945 c 251 s 1; Rem. Supp. 1945 s 8370-225.]

Effective dates—2017 c 323 ss 101-109: See note following RCW 54.28.125.

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

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

RCW 82.32.360 Conclusive effect of agreements. Upon approval of such agreement, evidenced by execution thereof by the department of revenue and the person so agreeing, the agreement shall be final and conclusive as to tax liability or tax immunity covered thereby, and, except upon a showing of fraud or malfeasance, or of misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon, or the agreement modified, by any officer, employee, or agent of the state, or the taxpayer, and

(2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded. [1975 1st ex.s. c 278 s 93; 1961 c 15 s 82.32.360. Prior: 1945 c 251 s 2; Rem. Supp. 1945 s 8370-226.]

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

RCW 82.32.380 Revenues to be deposited in general fund. The state treasurer, upon receipt of any payments of tax, penalty, interest, or fees collected hereunder shall deposit them to the credit of the state general fund or such other fund as may be provided by law. [1961 c 15 s 82.32.380. Prior: 1945 c 249 s 10; 1943 c 156 s 12A, 1941 c 178 s 19(a); 1939 c 225 s 31; 1937 c 227 s 32; 1935 c 180 s 211; Rem. Supp. 1945 s 8370-211.]

RCW 82.32.385 General fund transfers to multimodal transportation account, connecting Washington account. (1) Beginning September 2019 and ending December 2019, by the last day of September and December, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 \$13,680,000.

(2) Beginning March 2020 and ending June 2021, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the multimodal transportation account created in RCW 47.66.070 \$13,680,000.

(3) Beginning September 2021 and ending June 2023, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 \$13,805,000.

(4) Beginning September 2023 and ending June 2025, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 \$13,987,000.

(5) Beginning September 2025 and ending June 2027, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 \$11,658,000.

(6) Beginning September 2027 and ending June 2029, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 \$7,564,000.

(7) Beginning September 2029 and ending June 2031, by the last day of September, December, March, and June of each year, the state treasurer must transfer from the general fund to the connecting Washington account created in RCW 46.68.395 \$4,056,000.

(8) For fiscal year 2026 through fiscal year 2038, the state treasurer must transfer from the general fund to the move ahead WA flexible account created in RCW 46.68.520 \$31,000,000 each fiscal year in four equal quarterly transfers. This amount represents the

estimated state sales and use tax generated from new transportation projects and activities funded as a result of chapter 182, Laws of 2022.

(9) For fiscal year 2024 through fiscal year 2038, the state treasurer must transfer from the general fund to the move ahead WA flexible account created in RCW 46.68.520 \$57,000,000 each fiscal year in four equal quarterly transfers. [2022 c 182 s 301; 2020 c 219 s 703; 2015 3rd sp.s. c 44 s 420.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Effective date—2020 c 219: See note following RCW 46.68.310.

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

RCW 82.32.394 Revenues from sale or use of leaded racing fuel to be deposited into the advanced environmental mitigation revolving account. The department of revenue shall deposit into the advanced environmental mitigation revolving account, created in RCW 47.12.340, all moneys received from the imposition on consumers of the taxes under chapters 82.08 and 82.12 RCW on the sales or use of leaded racing fuel which is exempted from the motor vehicle fuel tax under *RCW 82.38.081. [1998 c 115 s 7.]

***Reviser's note:** RCW 82.38.081 was repealed by 2007 c 515 s 34.

Intent—1998 c 115 ss 6 and 7: "It is the intent of the legislature that leaded racing fuel be exempted from payment of the motor vehicle fuel tax, as provided in RCW 82.38.081, since it is illegal for use on the public highways of the state under federal law. The legislature further intends that leaded racing fuel be subject to the retail sales and use taxes under chapters 82.08 and 82.12 RCW and that the revenue collected will be earmarked as provided in RCW 82.32.394." [1998 c 115 s 5.]

RCW 82.32.410 Written determinations as precedents. (1) The director may designate certain written determinations as precedents.

(a) By rule adopted pursuant to chapter 34.05 RCW, the director shall adopt criteria which he or she shall use to decide whether a determination is precedential. These criteria shall include, but not be limited to, whether the determination clarifies an unsettled interpretation of Title 82 RCW or where the determination modifies or clarifies an earlier interpretation.

(b) Written determinations designated as precedents by the director shall be made available for public inspection and shall be published by the department.

(c) The department shall disclose any written determination upon which it relies to support any assessment of tax, interest, or penalty against such taxpayer, after making the deletions provided by subsection (2) of this section.

(2) Before making a written determination available for public inspection under subsection (1) of this section, the department shall delete:

(a) The names, addresses, and other identifying details of the person to whom the written determination pertains and of another person identified in the written determination; and

(b) Information the disclosure of which is specifically prohibited by any statute applicable to the department of revenue, and the department may also delete other information exempted from disclosure by chapter 42.56 RCW or any other statute applicable to the department of revenue. [2005 c 274 s 362; 2001 c 320 s 10; 1997 c 409 s 211; 1991 c 330 s 2.]

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

Part headings—Severability—1997 c 409: See notes following RCW 43.22.051.

RCW 82.32.430 Liability for tax rate calculation errors—Geographic information system. (1) A person who collects and remits sales or use tax to the department and who calculates the tax using geographic information system technology developed and provided by the department shall be held harmless and is not liable for the difference in amount due nor subject to penalties or interest in regards to rate calculation errors resulting from the proper use of such technology.

(2) Except as provided in subsection (3) of this section, the department shall notify sellers who collect and remit sales or use tax to the department of changes in boundaries and rates to taxes imposed under the authority of chapter 82.14 RCW no later than sixty days before the effective date of the change.

(3) The department shall notify sellers who collect and remit sales or use tax to the department and make sales from printed catalogs of changes, as to such sales, of boundaries and rates to taxes imposed under the authority of chapter 82.14 RCW no later than one hundred twenty days before the effective date of the change.

(4) Sellers who have not received timely notice of rate and boundary changes under subsections (2) and (3) of this section due to actions or omissions of the department are not liable for the difference in the amount due until they have received the appropriate period of notice. Purchasers are liable for any uncollected amounts of tax.

(5) (a) Except as provided in (b) of this subsection, sellers registered with the department under RCW 82.32.030(3) and certified service providers must use the address-based geographic information technology system developed and provided by the department to calculate the tax to be collected and remitted to the department and to determine the appropriate local jurisdictions entitled to the tax.

(b) (i) Upon a showing that using the address-based geographic information technology system would cause undue hardship, a seller may be temporarily held harmless and not liable for the difference in amount due nor subject to penalties or interest in regards to rate calculation errors resulting from the proper use of zip code-based technology provided by the department for the period in which relief is granted. The department shall notify local taxing jurisdictions of the identity of sellers granted relief under this section and the period for which relief is granted.

(ii) The department shall reimburse local taxing jurisdictions for differences in amount due on account of such rate calculation

errors occurring during the period in which relief is granted. Purchasers are liable for any uncollected amounts of tax. The department shall retain amounts collected from purchasers that have been reimbursed to local taxing jurisdictions under this subsection (5)(b)(ii). [2007 c 6 s 1501; 2003 c 168 s 207; 2001 c 320 s 11; 2000 c 104 s 4.]

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.

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

Findings—Intent—Effective date—2000 c 104: See notes following RCW 82.14.055.

RCW 82.32.440 Project on sales and use tax exemption requirements. (1) The department is authorized to enter into agreements with sellers who meet the criteria in this section for a project on sales and use tax exemption requirements. This project will allow the use of electronic data collection in lieu of paper certificates otherwise required by law, including the use of electronic signatures.

(2) The object of the project is to determine whether using an electronic system and reviewing the data regarding the exempt transactions provides the same level of reliability as the current system while lessening the burden on the seller.

(3) A business making both sales taxable and exempt under chapter 82.08 or 82.12 RCW, that has electronic data-collecting capabilities, and that wishes to participate in the project may make application to the department in such form and manner as the department may require. To be eligible for such participation, a seller must demonstrate its capability to take part in the project and to provide data to the department in a form in which the data can be used by the department. The department is not required to accept all applicants in this project and is not required to provide any reason for not selecting a participant. A seller selected as a participant may be relieved of other sales and use tax exemption documentation requirements provided by law as covered by the project. [2010 c 106 s 227; 2001 c 116 s 2.]

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

Findings—2001 c 116: "The legislature finds that current sales and use tax exemption documentation requirements are often confusing and burdensome for retailers, taxpayers, and the state. Additionally, the legislature notes the national efforts under way to simplify and streamline the sales and use tax, and that those efforts include a new system for retailers to use in processing sales and use tax exemptions. The legislature further finds that it would be beneficial to the state and its residents to allow for the simplification of sales and use tax exemption requirements." [2001 c 116 s 1.]

RCW 82.32.450 Natural or manufactured gas, electricity—Maximum combined credits and deferrals allowed—Availability of credits and deferrals. (1) The total combined credits and deferrals that may be taken under RCW 82.04.447, 82.12.024, and 82.16.0495 shall not exceed two million five hundred thousand dollars in any fiscal year. Each person is limited to no more than a total of one million five hundred thousand dollars in tax deferred and credit allowed in any fiscal year in which more than one person takes tax credits and claims tax deferral. The department may require reporting of the credits taken and amounts deferred in a manner and form as is necessary to keep a running total of the amounts.

(2) Credits and deferred tax are available on a first-come basis. Priority for tax credits and deferrals among approved applicants shall be designated based on the first actual consumption of gas under RCW 82.04.447 or 82.12.024, or on the first actual use of electricity under RCW 82.16.0495, by each approved applicant. The department shall disallow any credits or deferred tax, or portion thereof, that would cause the total amount of credits taken and deferred taxes claimed to exceed the fiscal year cap or to exceed the per person fiscal year cap. If the fiscal cap is reached or exceeded[,] the department shall notify those persons who have approved applications under RCW 82.04.447, 82.12.024, and 82.16.0495 that no more credits may be taken or tax deferred during the remainder of the fiscal year. In addition, the department shall provide written notice to any person who has taken any tax credits or claimed any deferred tax in excess of the fiscal year cap. The notice shall indicate the amount of tax due and shall provide that the tax be paid within thirty days from the date of such notice.

(3) No portion of an application for credit or deferral disallowed under this section may be carried back or carried forward nor may taxes ineligible for credit or deferral due to the fiscal cap having been reached or exceeded be carried forward or carried backward. [2001 c 214 s 12.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

RCW 82.32.470 Transfer of sales and use tax on toll projects.

(1) The tax imposed and collected under chapters 82.08 and 82.12 RCW, less any credits allowed under chapter 82.14 RCW, on initial construction for a transportation project to be constructed under chapter 36.120 RCW, must be transferred to the transportation project to defray costs or pay debt service on that transportation project. In the case of a toll project, this transfer or credit must be used to lower the overall cost of the project and thereby the corresponding tolls.

(2) This transaction is exempt from the requirements in *RCW 43.135.035(4).

(3) Government entities constructing transportation projects under chapter 36.120 RCW shall report to the department the amount of state sales or use tax covered under this section. [2002 c 56 s 407.]

***Reviser's note:** RCW 43.135.035 was repealed by 2011 c 1 s 3 (Initiative Measure No. 1053) without cognizance of its amendment by

2010 c 4 s 2. 2010 c 4 s 2 was subsequently repealed by 2013 c 1 s 3 (Initiative Measure No. 1185, approved November 6, 2012).

RCW 82.32.480 Washington forest products commission—Disclosure of taxpayer information. The forest products commission, created pursuant to chapter 15.100 RCW, constitutes a state agency for purposes of applying the exemption contained in RCW 82.32.330(3)(e) for the disclosure of taxpayer information by the department. Disclosure of return or tax information may be made only to employees of the commission and not to commission members. Employees are authorized to use this information in accordance with RCW 15.100.100(4). Employees are subject to all civil and criminal penalties provided under RCW 82.32.330 for disclosures made to another person not entitled under the provisions of this section or RCW 15.100.100 to knowledge of such information. [2010 c 106 s 105; 2001 c 314 s 20.]

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

Findings—Construction—2001 c 314: See RCW 15.100.010 and 15.100.900.

RCW 82.32.490 Electronic database for use by mobile telecommunications service provider. (1)(a) The department may provide an electronic database as described in this section to a mobile telecommunications service provider, or if the department does not provide an electronic database to mobile telecommunications service providers, then the designated database provider may provide an electronic database to a mobile telecommunications service provider.

(b)(i) An electronic database, whether provided by the department or the designated database provider, shall be provided in a format approved by the American national standards institute's accredited standards committee X12, that after allowing for de minimis deviations, designates for each street address in the state, including to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide standard numeric code.

(ii) An electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction.

(iii) The nationwide standard numeric codes shall contain the same number of numeric digits with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the federation of tax administrators and the multistate tax commission, or their successors. Each address shall be provided in standard postal format.

(2) The department or designated database provider, as applicable, that provides or maintains an electronic database described in subsection (1) of this section shall provide notice of

the availability of the then-current electronic database, and any subsequent revisions, by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in the state.

(3) A mobile telecommunications service provider using the data contained in an electronic database described in subsection (1) of this section shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in the database provided by the department or designated database provider. The mobile telecommunications service provider shall reflect changes made to the database during a calendar quarter not later than thirty days after the end of the calendar quarter if the department or designated database provider, as applicable, has issued notice of the availability of an electronic database reflecting the changes under subsection (2) of this section. [2002 c 67 s 11.]

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

RCW 82.32.495 Liability of mobile telecommunications service provider if no database provided. (1) If neither the department nor the designated database provider provides an electronic database under RCW 82.32.490, a mobile telecommunications service provider shall be held harmless from any tax, charge, or fee liability in any taxing jurisdiction in this state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to RCW 82.32.500, the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within the enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with RCW 82.32.500 is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if the home service provider demonstrates that it has:

(a) Expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

(b) Implemented and maintained reasonable internal controls to correct misassignments of street addresses to taxing jurisdictions promptly; and

(c) Used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of the database.

(2) Subsection (1) of this section applies to a mobile telecommunications service provider that is in compliance with the requirements of subsection (1) of this section, if in this state an electronic database has not been provided under RCW 82.32.490, until the later of:

(a) Eighteen months after the nationwide standard numeric code described in RCW 82.32.490(1) has been approved by the federation of tax administrators and the multistate tax commission; or

(b) Six months after the department or a designated database provider in this state provides the database as prescribed in RCW 82.32.490(1). [2002 c 67 s 12.]

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

RCW 82.32.500 Determination of taxing jurisdiction for telecommunications services. A taxing jurisdiction, or the department on behalf of any taxing jurisdiction or taxing jurisdictions within this state, may:

(1) Determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use in RCW 82.04.065 and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination. If the authority making the determination is not the department, the taxing jurisdiction must obtain the consent of all affected taxing jurisdictions within the state before giving the notice of determination. Before the taxing jurisdiction gives the notice of determination, the customer must be given an opportunity to demonstrate, in accordance with applicable state or local tax, charge, or fee administrative procedures, that the address is the customer's place of primary use; and

(2) Determine that the assignment of a taxing jurisdiction by a home service provider under RCW 82.32.495 does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination. If the authority making the determination is not the department, the taxing jurisdiction must obtain the consent of all affected taxing jurisdictions within the state before giving the notice of determination. The home service provider must be given an opportunity to demonstrate, in accordance with applicable state or local tax, charge, or fee administrative procedures, that the assignment reflects the correct taxing jurisdiction. [2002 c 67 s 13.]

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

RCW 82.32.505 Telecommunications services—Place of primary use.

(1) A home service provider is responsible for obtaining and maintaining information regarding the customer's place of primary use as defined in RCW 82.04.065. Subject to RCW 82.32.500, and if the home service provider's reliance on information provided by its customer is in good faith, a taxing jurisdiction shall:

(a) Allow a home service provider to rely on the applicable residential or business street address supplied by the home service provider's customer; and

(b) Not hold a mobile telecommunications service provider liable for any additional taxes, charges, or fees based on a different determination of the place of primary use.

(2) Except as provided in RCW 82.32.500, a taxing jurisdiction shall allow a home service provider to treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect on August 1, 2002, as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal of the service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted. [2002 c 67 s 14.]

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

RCW 82.32.510 Scope of mobile telecommunications act— Identification of taxable and nontaxable charges. (1) Chapter 67, Laws of 2002 does not modify, impair, supersede, or authorize the modification, impairment, or supersession of any law allowing a taxing jurisdiction to collect a tax, charge, or fee from a customer that has failed to provide its place of primary use.

(2) If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services may be subject to taxation unless the mobile telecommunications service provider can reasonably identify charges not subject to the tax, charge, or fee from its books and records that are kept in the regular course of business.

(3) If a taxing jurisdiction does not subject charges for mobile telecommunications services to taxation, a customer may not rely upon the nontaxability of charges for mobile telecommunications services unless the customer's home service provider separately states the charges for nontaxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the nontaxable charges. [2002 c 67 s 15.]

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

RCW 82.32.515 Applicability of telephone and telecommunications definitions. The definitions in RCW 82.04.065 apply to RCW 82.32.490 through 82.32.510 and 35.21.873. [2002 c 67 s 17.]

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

RCW 82.32.520 Sourcing of calls. (1) Except for the defined telecommunications services listed in subsection (3) of this section,

the sale of telecommunications service as defined in RCW 82.04.065 sold on a call-by-call basis is sourced to (a) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or (b) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the defined telecommunications services listed in subsection (3) of this section, a sale of telecommunications service as defined in RCW 82.04.065 sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

(3) The sales of telecommunications service as defined in RCW 82.04.065 that are listed in subsection (3) of this section is sourced to each level of taxing jurisdiction as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by RCW 82.08.066.

(b) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either (i) the seller's telecommunications system, or (ii) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced as follows:

(i) When a prepaid calling service or a prepaid wireless calling service is received by the purchaser at a business location of the seller, the sale is sourced to that business location;

(ii) When a prepaid calling service or a prepaid wireless calling service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(iii) When (c)(i) and (ii) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(iv) When (c)(i), (ii), and (iii) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith;

(v) When (c)(i), (ii), (iii), and (iv) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, the sale is sourced as provided in RCW 82.32.730(1)(e);

(vi) In the case of a sale of prepaid wireless calling service, (c)(v) of this subsection includes as an option the location associated with the mobile telephone number.

(d) A sale of a private communication service is sourced as follows:

(i) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(ii) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced

in such jurisdiction in which the customer channel termination points are located.

(iii) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.

(iv) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

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

(a) "Air-ground radiotelephone service" means air-ground radio service, as defined in 47 C.F.R. Sec. 22.99, as amended or renumbered as of January 1, 2003, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(b) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(c) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(d) "Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. "Customer" does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(e) "Customer channel termination point" means the location where the customer either inputs or receives the communications.

(f) "End user" means the person who uses the telecommunications service. In the case of an entity, the term end user means the individual who uses the service on behalf of the entity.

(g) "Home service provider" means the same as that term is defined in RCW 82.04.065.

(h) "Mobile telecommunications service" means the same as that term is defined in RCW 82.04.065.

(i) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

(j) "Postpaid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a telecommunications service, except a prepaid

wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service.

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

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

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

(n) "Service address" means:

(i) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(ii) If the location in (n)(i) of this subsection is not known, the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

(iii) If the locations in (n)(i) and (ii) of this subsection are not known, the location of the customer's place of primary use. [2010 c 106 s 228. Prior: 2007 c 54 s 18; 2007 c 6 s 1001; 2004 c 153 s 403; 2003 c 168 s 501.]

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

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

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

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

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

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

RCW 82.32.525 Purchaser's cause of action for over-collected sales or use tax. (1) A purchaser's cause of action against the seller for over-collected sales or use tax does not accrue until the purchaser has provided written notice to the seller and the seller has

sixty days to respond. The notice to the seller must contain the information necessary to determine the validity of the request.

(2) In connection with a purchaser's request from a seller for over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller:

(a) Uses either a provider or a system, including a proprietary system, that is certified by the state; and

(b) Has remitted to the state all taxes collected less any deductions, credits, or collection allowances. [2004 c 153 s 408; 2003 c 168 s 211.]

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 82.32.530 Seller nexus. The department may not use registration under the streamlined sales and use tax agreement and collection of sales and use taxes in member states as a factor in determining whether the seller has nexus with Washington for any tax at any time. [2004 c 153 s 404; 2003 c 168 s 213.]

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 82.32.531 Nexus—Trade convention attendance or participation. (1) For purposes of the taxes imposed or authorized under chapters 82.04, 82.08, 82.12, and 82.14 RCW, the department may not make a determination of nexus based solely on the attendance or participation of one or more representatives of a person at a single trade convention per year in Washington state in determining if such person is physically present in this state for the purposes of establishing substantial nexus with this state.

(2) Subsection (1) of this section does not apply to persons making retail sales at a trade convention, including persons taking orders for products or services where receipt will occur in Washington state.

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

(a) "Not marketed to the general public" means that the sponsor of a trade convention limits its marketing efforts for the trade convention to its members and specific invited guests of the sponsoring organization.

(b) "Physically present in this state" and "substantial nexus with this state" have the same meaning as provided in RCW 82.04.067.

(c) "Trade convention" means an exhibition for a specific industry or profession, which is not marketed to the general public, for the purposes of:

- (i) Exhibiting, demonstrating, and explaining services, products, or equipment to potential customers; or
- (ii) The exchange of information, ideas, and attitudes in regards to that industry or profession. [2016 c 137 s 3.]

Reviser's note: Section 3, chapter 137, Laws of 2016 expires January 1, 2027, pursuant to the automatic expiration date established in RCW 82.32.805(1) (a).

Tax preference performance statement—2016 c 137 s 3: "(1) This section is the tax preference performance statement for the tax preference contained in section 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 this tax preference as one intended to induce certain designated behavior by taxpayers as indicated in RCW 82.32.808(2) (a).

(3) It is the legislature's specific public policy objective to encourage participation in Washington trade conventions. It is the legislature's intent to allow a business to participate in one trade convention in Washington each year without that participation being the sole basis for establishing physical presence nexus with the state for tax purposes. Pursuant to chapter 43.136 RCW, the joint legislative audit and review committee must review the new tax preference established under section 3 of this act by December 31, 2025.

(4) If a review finds that the number of businesses participating in trade conventions in Washington has increased from 2015 levels, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference. If the joint legislative audit and review committee finds that the number of businesses participating in trade conventions in Washington has not increased above 2015 levels, then the joint legislative audit and review committee must make recommendations on how the tax preference can be improved to accomplish that legislative objective. To obtain the data necessary to perform this review, the joint legislative audit and review committee must request the required information from the department of revenue and the Washington state convention center operated under chapter 36.100 RCW." [2016 c 137 s 1.]

Effective date—2016 c 137: See note following RCW 82.04.067.

RCW 82.32.532 Digital products—Nexus. (1) For purposes of the taxes imposed in this title, the department of revenue may not consider a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; digital goods or digital codes residing on servers located in this state in determining whether the person has substantial nexus with this state.

(2) For purposes of this section, "substantial nexus" means the requisite connection that a person has with a state to allow the state to subject the person to the state's taxing authority, consistent with

the commerce clause of the United States Constitution. [2010 c 111 s 701; 2009 c 535 s 901.]

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

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

RCW 82.32.533 Digital products—Amnesty. (1) Except as provided in subsection (2) of this section, no person may be held liable for the failure to collect or pay state and local sales and use taxes accrued before July 26, 2009, on the sale or use of digital goods or of services defined as a retail sale in RCW 82.04.050(2)(a) and rendered in respect to digital goods.

(2) Subsection (1) of this section does not relieve any person from liability for state and local sales taxes that the person collected from buyers but did not remit to the department of revenue.

(3) Nothing in this section may be construed as authorizing the refund of state and local sales and use taxes properly paid on the sale or use, before July 26, 2009, of digital goods or of services defined as a retail sale in RCW 82.04.050(2)(a) and rendered in respect to digital goods.

(4) A person is not entitled to a credit or refund of any business and occupation tax paid in excess of that properly due as a result of the person paying tax on its income earned from the sale of eligible digital products and services at the tax rate provided in RCW 82.04.290(2)(a) rather than the tax rate provided in RCW 82.04.250(1), unless the person requesting the credit or refund has paid the proper amount of state and local sales taxes due on the sales of the eligible digital products and services that generated the income in respect to which the business and occupation tax credit or refund is sought. For purposes of this subsection, "eligible digital products and services" means: (a) Digital goods; and (b) services defined as a retail sale in RCW 82.04.050(2)(a) and rendered in respect to digital goods.

(5) For purposes of this section, "digital goods" has the same meaning as in RCW 82.04.192. [2010 c 111 s 801; 2009 c 535 s 1001.]

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

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

RCW 82.32.534 Annual report requirement for tax preferences.

(1)(a)(i) Beginning in calendar year 2018, every person claiming a tax preference that requires an annual tax performance report under this section must file a complete annual report with the department. The report is due by May 31st of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a report under this section.

(ii) If the tax preference is a deferral of tax, the first annual tax performance report must be filed by May 31st of the calendar year following the calendar year in which the investment project is

certified by the department as operationally complete. An annual tax performance report must also be filed by May 31st of each succeeding calendar year through the calendar year in which the deferred taxes are fully repaid or are immediately due and payable because the recipient of the deferral is no longer eligible for the deferral.

(iii) The department may extend the due date for timely filing of annual reports under this section as provided in RCW 82.32.590.

(b) The report must include information detailing employment and wages for employment positions in Washington for the year that the tax preference was claimed. However, persons engaged in manufacturing commercial airplanes or components of such airplanes may report employment and wage information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed. In lieu of reporting employment and wage data required under this subsection, taxpayers may instead opt to allow the employment security department to release the same employment and wage information from unemployment insurance records to the department and the joint legislative audit and review committee. This option is intended to reduce the reporting burden for taxpayers, and each taxpayer electing to use this option must affirm that election in accordance with procedures approved by the employment security department.

(c) Persons receiving the benefit of the tax preference provided by RCW 82.16.0421 or claiming any of the tax preferences provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual report the quantity of product produced in this state during the time period covered by the report.

(d) If a person filing a report under this section did not file a report with the department in the previous calendar year, the report filed under this section must also include employment and wage information for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(2) (a) As part of the annual report, the department and the joint legislative audit and review committee may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(b) The report must include the amount of the tax preference claimed for the calendar year covered by the report. For a person that claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the report must include the amount of tax exempted under those sections in the prior calendar year for each general area or category of research and development for which exempt machinery and equipment and labor and services were acquired in the prior calendar year.

(3) Other than information requested under subsection (2) (a) of this section, the information contained in an annual report filed under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(4) (a) Except as otherwise provided by law, if a person claims a tax preference that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.590, the department must declare:

(i) Thirty-five percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable;

(ii) An additional fifteen percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable if the person has previously been assessed under this subsection (4) for failure to submit a report under this section for the same tax preference; and

(iii) If the tax preference is a deferral of tax, the amount immediately due under this subsection is the deferred tax divided by the number of years in the repayment period. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(b) The department may not assess interest or penalties on amounts due under this subsection.

(5) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December 31st.

(6) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a report under this section. [2022 c 56 s 10; 2021 c 145 s 19; 2017 c 135 s 1; 2016 c 175 s 1; 2014 c 97 s 102; 2010 c 114 s 103.]

Effective date—2017 c 135: "This act takes effect January 1, 2018." [2017 c 135 s 48.]

Effective date—2016 c 175: "This act takes effect July 1, 2016." [2016 c 175 s 4.]

Application—Prospective and retroactive—2016 c 175: "(1) In addition to applying prospectively, sections 1(4) and 2(6) of this act apply retroactively for a taxpayer who has filed an appeal regarding taxes, penalties, and interest owed under RCW 82.32.534 or *82.32.585 before January 1, 2016, and the appeal is pending before the department of revenue or the board of tax appeals as of July 1, 2016.

(2) Except for taxpayers described in subsection (1) of this section, sections 1(4) and 2(6) of this act apply to amounts due and payable under sections 1(4) and 2(6) of this act on or after July 1, 2017." [2016 c 175 s 3.]

***Reviser's note:** RCW 82.32.585 was repealed by 2017 c 135 s 2, effective January 1, 2018.

Annual surveys and reports—Recommendations to update and improve—2013 2nd sp.s. c 13: "By December 1, 2013, the department of revenue, in consultation with the joint legislative audit and review committee, must make recommendations to the appropriate fiscal committees of the legislature on ways to update and improve the annual report and annual survey. The recommendations must include suggested revisions to the report and survey that would make the data more relevant and reduce the administrative burden on the taxpayer." [2013 2nd sp.s. c 13 s 1801.]

Application—2010 c 114: "Those provisions of sections 101 through 103, 105 through 109, 111 through 116, 118 through 122, 124, 126 through 128, 130, 132 through 149, and 151 through 153 of this act

that relate to annual surveys and annual reports apply beginning with annual surveys and annual reports due in 2011 and thereafter." [2010 c 114 s 203.]

Finding—Intent—2010 c 114: "(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources, the legislature needs information on how a tax preference is used. In recent years, the legislature has enacted or extended numerous tax preferences that require the reporting of information to the department of revenue. Although there are many similarities in the requirements, and only two distinct accountability documents, there is a lack of uniformity in the information reported, penalties for failure to file, due dates, filing extensions, and filing requirements. Greater uniformity in the data reported is necessary to adequately compare tax preference programs. The legislature intends to create two sets of uniform reporting requirements that apply to the existing tax preferences and can be used in future legislation granting additional tax preferences.

(2) The legislative fiscal committees or the department of revenue are required to study many of the existing tax preferences and report to the legislature at least once. Because chapter 43.136 RCW now requires the joint legislative audit and review committee, with support from the department of revenue, to comprehensively review most tax preferences every ten years and provide a report to the legislature, a number of redundant studies by the legislative fiscal committees and the department of revenue have been eliminated. However, the department of revenue will continue to prepare summary descriptive statistics by category and report the statistics to the legislature each year." [2010 c 114 s 101.]

RCW 82.32.537 Silicon smelters—Annual survey or report.

(Contingent expiration date.) (1)(a) A silicon smelter operated by a person required to submit an annual survey or report under RCW 82.16.315, 82.04.545, or 82.12.022 must repay an amount equal to the entire economic benefit accruing to the person for the previous two calendar years due to the tax preferences under RCW 82.16.315, 82.04.545, or 82.12.022 if:

(i) The average number of employment positions at a silicon smelter operated by the person is less than one hundred employment positions, as reported to the employment security department for the previous two calendar years; and

(ii) The average annual wage for all employment positions is equal to or less than the average annual wage for the county in which the silicon smelter operation is located for the previous two calendar years. The department must use the finalized 2015 county wage data from the census of employment and wages as reported by the employment security department.

(b) The department must make the determinations under (a)(i) and (ii) of this subsection (1) by August 31, 2023.

(2) If any tax preference amounts must be repaid under subsection (1) of this section, the department must declare the tax preference amounts to be immediately due and payable. The department must assess interest, but not penalties, on the amounts due under this subsection. The department must assess interest at the rate provided for

delinquent taxes under this chapter, retroactively to the date the tax preference was claimed, and such interest accrues until the tax preference amounts are repaid.

(3) If any tax preference amounts must be repaid under subsection (1) of this section, the person may not continue to benefit from the tax preferences under RCW 82.16.315, 82.04.545, or 82.12.022. [2017 3rd sp.s. c 37 s 708.]

Contingent expiration date—2017 3rd sp.s. c 37 ss 701-708:

"(1) (a) Except as provided in (b) of this subsection, part VII of this act expires July 1, 2027.

(b) (i) If a person must make repayment under section 708 of this act, part VII of this act expires January 1, 2024.

(ii) Section 706 of this act expires January 1, 2018.

(2) If the contingent expiration date in subsection (1) (b) of this section occurs, the department of revenue must provide written notice of the expiration date of part VII of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

(3) If the contingent expiration date in subsection (1) (b) of this section occurs, the joint legislative audit and review committee is not required to perform the evaluation required in section 701 of this act." [2017 3rd sp.s. c 37 s 1407.]

Findings—Intent—Tax preference performance statement—2017 3rd sp.s. c 37 ss 701-708: See note following RCW 82.16.315.

RCW 82.32.550 "Commercial airplane," "component," and "superefficient airplane"—Definitions. (1) "Commercial airplane" has its ordinary meaning, which is an airplane certified by the federal aviation administration for transporting persons or property, and any military derivative of such an airplane.

(2) "Component" means a part or system certified by the federal aviation administration for installation or assembly into a commercial airplane.

(3) "Superefficient airplane" means a twin aisle airplane that carries between two hundred and three hundred fifty passengers, with a range of more than seven thousand two hundred nautical miles, a cruising speed of approximately mach .85, and that uses fifteen to twenty percent less fuel than other similar airplanes on the market. [2010 1st sp.s. c 23 s 517; 2008 c 81 s 12; 2007 c 54 s 20; 2003 2nd sp.s. c 1 s 17.]

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.

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

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

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

RCW 82.32.555 Telecommunications and ancillary services taxes—Identification of taxable and nontaxable charges. If a taxing jurisdiction does not subject some charges for ancillary services or telecommunications service, as those terms are defined in RCW 82.04.065, to taxation, but these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable ancillary services or telecommunications service, as those terms are defined in RCW 82.04.065, may be subject to taxation unless the telecommunications service provider or ancillary services provider can reasonably identify charges not subject to the tax, charge, or fee from its books and records that are kept in the regular course of business and for purposes other than merely allocating the sales price of an aggregated charge to the individually aggregated items. [2007 c 54 s 21; 2007 c 6 s 1011; 2004 c 76 s 1.]

Reviser's note: This section was amended by 2007 c 6 s 1011 and by 2007 c 54 s 21, 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).

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

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

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

RCW 82.32.558 Tax deferral—Eligible projects—Application. (Expires January 1, 2030.) (1) Until October 1, 2019, a qualifying business may apply for a deferral of taxes on an eligible project. Application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the project, estimated or actual costs of the project, time schedules for completion and operation of the project, and other information required by the department. The department must rule on the application within sixty days.

(2) If the department approves an application for a deferral of taxes under this section, the department must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, 82.14, and 81.104 RCW. This certificate expires on the date the eligible project becomes operationally complete. The certificate may only be used for sales and use tax liability incurred after the date the department issued the certificate.

(3) A recipient of a certificate must notify the department when its eligible project is operationally complete. The department must review the qualifying business's records after the eligible project is operationally complete to ensure the correct amount of taxes has been reported and will be repaid.

(4) (a) For local sales and use taxes, the recipient of the certificate must begin paying deferred sales and use taxes in the first calendar year after the date certified by the department as the

date on which the eligible project is operationally complete. The first payment is due on January 1st of the first calendar year after such certified date, with subsequent annual payments due on January 1st of the following seven years. Each payment must equal twelve and one-half percent of the tax due plus interest.

(b) For state sales and use taxes, the recipient of the certificate must repay all deferred state sales and use taxes by June 30, 2023.

(c) The department must assess interest, but not penalties, on the deferred taxes. The interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the project was certified to be operationally complete, and will accrue until the deferred taxes are repaid.

(5) The department may authorize an accelerated repayment schedule upon request of the qualifying business.

(6) The debt for taxes due is not extinguished by insolvency or other failure of the qualifying business. Transfer of ownership does not terminate the deferral if the transferee agrees in writing to be bound by the requirements of this section and receives approval from the department. If the department approves the transfer of the deferral to a transferee, such approval not to be unreasonably withheld, conditioned, or delayed, the transferee is solely liable for repayment of the deferred taxes.

(7) If the eligible project is not operationally complete within three calendar years from the date that the department issued the certificate for the project, or if at any time the department finds that the project is not eligible for a deferral under this section, the amount of taxes outstanding for the project is immediately due and payable. If taxes must be repaid under this subsection, the department must assess interest at the rate provided for delinquent taxes under this chapter retroactively to the date of issuance of the certificate, but not penalties, on amounts due under this subsection.

(8) Applications and any other information received by the department under this section are not confidential under RCW 82.32.330. This chapter applies to the administration of this section.

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

(a) "Eligible project" means a project consisting of either or both (i) a qualifying arena, associated parking structures, plazas, public spaces, and one or more tunnels connecting the arena and parking structures, or (ii) an ice hockey practice facility.

(b) "Ice hockey practice facility" means one or more contiguous structures of up to two hundred thousand square feet located within ten miles of a qualifying arena that (i) contains at least three ice rinks, and (ii) is being developed to attract a professional ice hockey franchise. An "ice hockey practice facility" may include ice rinks, spectator viewing locations, locker rooms, strength and conditioning rooms, administrative offices, retail space, food service facilities, and other amenities related to the operation of a state-of-the-art ice hockey center.

(c) "Operationally complete" means the project is capable of being used for its intended purpose as described in the application.

(d) "Personal property" means tangible personal property with a useful life of one year or more that is used in the operation of the eligible project.

(e) "Project" means the construction of new improvements, the renovation of existing improvements, the acquisition and installation

of fixtures that are permanently affixed to and become a physical part of those improvements, personal property, and site preparation. "Project" includes materials used and labor and services rendered in respect to the planning, site preparation, construction, renovation, and installation.

(f) "Qualifying arena" means a multipurpose sports and entertainment facility owned by the largest city in a county with a population of at least one million five hundred thousand that is being redeveloped to attract professional ice hockey and basketball league franchises.

(g) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and has entered into a lease or occupancy agreement with the fee owner of a qualifying arena and/or ice hockey practice facility to engage in the development of an eligible project.

(h) "Site preparation" includes soil testing, site clearing and grading, demolition, or any other related activities that are initiated before construction.

(10) This section expires January 1, 2030. [2019 c 347 s 2.]

Tax preference performance statement—2019 c 347: "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 347, 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.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals and to accomplish a general purpose as indicated in RCW 82.32.808(2) (e) and (f).

(3) It is the legislature's specific public policy objective to increase the fiscal stability of multipurpose sports and entertainment arenas in Washington state and thereby strengthen the economic vitality of the communities in which the arenas and practice facilities are located.

(4) To measure the effectiveness of the tax preference in achieving the specific public policy objective described in this act, the joint legislative audit and review committee must evaluate this tax preference. In evaluating the tax preference, the joint legislative audit and review committee may refer to data provided to the department of revenue." [2019 c 347 s 1.]

Effective date—2019 c 347: "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 9, 2019]." [2019 c 347 s 4.]

RCW 82.32.559 Tax deferral—Eligible projects—Deposit of funds.

(1) The state treasurer must deposit the repayment of deferred state sales and use taxes due under RCW 82.32.558 into the general fund.

(2) (a) Subject to the requirements provided in (b) of this subsection (2), the state treasurer must deposit deferred local sales and use taxes due under RCW 82.32.558 into the local sales and use tax account created in RCW 82.14.050.

(b) Half of the repayment of deferred local sales and use taxes due under RCW 82.32.558 must be distributed to a county where an eligible project under RCW 82.32.558(9)(a)(i) is located for the exclusive purpose of funding the construction or rehabilitation of capital facilities used for youth educational programming related to discovery, experimentation, and critical thinking in the sciences. Funds may also be used for the maintenance and operation of such capital facilities, which may include off-site operations that directly relate to the core mission of curiosity, discovery, experimentation, and critical thinking. The capital facility must be located on the same premises as a qualifying arena.

(3) The state treasurer must deposit any interest assessed and accrued on taxes due pursuant to RCW 82.32.558(4) that is part of any annual repayment as follows:

(a) Interest on state taxes must be deposited into the state general fund.

(b) Interest on local taxes must be deposited into the local sales and use tax account.

(4) In the event that an accelerated repayment schedule is authorized by the department pursuant to RCW 82.32.558(5), the state treasurer must deposit any amount in excess of taxes due pursuant to RCW 82.32.558(4) into the state general fund and into the local sales and use account, with the respective amounts deposited based on the proportionate shares of the state taxes and local taxes due. [2021 c 178 s 1; 2019 c 347 s 3.]

Tax preference performance statement—Effective date—2019 c 347:
See notes following RCW 82.32.558.

RCW 82.32.580 Sales and use tax deferral—Historic automobile museum. (1) The governing board of a nonprofit organization, corporation, or association may apply for deferral of taxes on an eligible project. Application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the project, estimated or actual costs of the project, time schedules for completion and operation of the project, and other information required by the department. The department must rule on the application within sixty days. All applications for the tax deferral under this section must be received no later than December 31, 2008.

(2) The department must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible project.

(3) The nonprofit organization, corporation, or association must begin paying the deferred taxes in the tenth year after the date certified by the department as the date on which the eligible project is operationally complete. The first payment is due on December 31st of the tenth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment must equal ten percent of the deferred tax.

(4) The department may authorize an accelerated repayment schedule upon request of the nonprofit organization, corporation, or association.

(5) Except as provided in subsection (6) of this section, interest may not be charged on any taxes deferred under this section

for the period of deferral. The debt for deferred taxes is not extinguished by insolvency or other failure of the nonprofit organization, corporation, or association.

(6) If the project is not operationally complete within five calendar years from issuance of the tax deferral or if at any time the department finds that the project is not eligible for tax deferral under this section, the amount of deferred taxes outstanding for the project is immediately due and payable. If deferred taxes must be repaid under this subsection, the department must assess interest, but not penalties, on amounts due under this subsection. Interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date of deferral, and accrues until the deferred taxes due are repaid.

(7) Applications and any other information received by the department of revenue under this section are not confidential under RCW 82.32.330. This chapter applies to the administration of this section.

(8) This section applies to taxable eligible project activity that occurs on or after July 1, 2007.

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

(a) "Eligible project" means a project that is used primarily for a historic automobile museum.

(b) "Historic automobile museum" means a facility owned and operated by a nonprofit organization, corporation, or association that is used to maintain and exhibit to the public a collection of at least five hundred motor vehicles.

(c) "Nonprofit organization, corporation, or association" means an organization, corporation, or association exempt from tax under section 501(c) (3), (4), or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c) (3), (4), or (10)).

(d) "Project" means the construction of new structures, the acquisition and installation of fixtures that are permanently affixed to and become a physical part of those structures, and site preparation. For purposes of this subsection, structures do not include parking facilities used for motor vehicles that are not on display or part of the museum collection.

(e) "Site preparation" includes soil testing, site clearing and grading, demolition, or any other related activities that are initiated before construction. Site preparation does not include landscaping services or landscaping materials. [2017 3rd sp.s. c 37 s 902; 2005 c 514 s 701.]

Tax preference performance statement—2017 3rd sp.s. c 37 s 902:

"(1) This section is the tax preference performance statement for the tax preference contained in section 902, chapter 37, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals and to accomplish a general purpose as indicated in RCW 82.32.808(2) (e) and (f).

(3) It is the legislature's specific public policy objective to increase the fiscal stability of historic automobile museums in

Washington state and thereby strengthen the economic vitality of the communities in which the museums are located.

(4) To measure the effectiveness of the tax preference in section 902, chapter 37, Laws of 2017 3rd sp. sess. in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must evaluate this tax preference. In evaluating the tax preference, the joint legislative audit and review committee may refer to data provided to the department of revenue." [2017 3rd sp.s. c 37 s 901.]

Effective date—2005 c 514 s 701: "Section 701 of this act takes effect July 1, 2007." [2005 c 514 s 1306.]

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

RCW 82.32.590 Annual tax performance reports—Failure to file.

(1) If the department finds that the failure of a taxpayer to file an annual tax performance report under RCW 82.32.534 by the due date was the result of circumstances beyond the control of the taxpayer, the department must extend the time for filing the tax performance report. The extension is for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual tax performance report by the due date was the result of circumstances beyond the control of the taxpayer, the department must be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(3)(a) Subject to the conditions in this subsection (3), a taxpayer who fails to file an annual tax performance report required under subsection (1) of this section by the due date of the report is entitled to an extension of the due date. A request for an extension under this subsection (3) must be made in writing to the department.

(b) To qualify for an extension under this subsection (3), a taxpayer must have filed all annual tax performance reports, if any, due in prior years under subsection (1) of this section by their respective due dates, beginning with annual reports due in calendar year 2010.

(c) An extension under this subsection (3) is for ninety days from the original due date of the annual tax performance report.

(d) No taxpayer may be granted more than one ninety-day extension under this subsection (3). [2017 c 135 s 3; 2011 c 174 s 306. Prior: 2010 c 137 s 1; 2010 c 114 s 135; 2009 c 461 s 7; prior: 2008 c 81 s 13; 2008 c 15 s 7; prior: 2006 c 354 s 17; 2006 c 300 s 10; 2006 c 177 s 8; 2006 c 112 s 7; 2006 c 84 s 7; 2005 c 514 s 1001.]

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

Application—2010 c 137: "Section 1 of this act applies to annual surveys and reports due under any of the statutes listed in RCW 82.32.590(1) in calendar year 2011 and thereafter." [2010 c 137 s 2.]

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

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

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

Effective date—2008 c 15: See note following RCW 82.82.010.

Effective dates—2006 c 354: See note following RCW 82.04.4268.

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

Effective date—2006 c 177 ss 1-9: See note following RCW 82.04.250.

Effective date—2006 c 84 ss 2-8: See note following RCW 82.04.2404.

Findings—Intent—2006 c 84: See note following RCW 82.04.2404.

Retroactive application—2005 c 514 s 1001: "Section 1001 of this act applies retroactively to annual surveys required under RCW 82.04.4452 that are due after December 31, 2004." [2005 c 514 s 1312.]

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 82.32.600 Annual tax performance reports—Electronic filing.

(1) Persons required to file annual tax performance reports under RCW 82.32.534 must electronically file with the department all reports, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department. As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

(2) Any report, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.

(3) The department may waive the electronic filing requirement in subsection (1) of this section for good cause shown. [2017 c 135 s 4; 2010 c 114 s 136; 2009 c 461 s 8. Prior: 2008 c 81 s 14; 2008 c 15 s 8; prior: 2007 c 54 s 23; 2007 c 54 s 22; prior: 2006 c 354 s 16; 2006 c 300 s 11; 2006 c 178 s 9; 2006 c 177 s 9; 2006 c 84 s 8; 2005 c 514 s 1002.]

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

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

Effective date—2008 c 15: See note following RCW 82.82.010.

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

Effective dates—2006 c 354: See note following RCW 82.04.4268.

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

Effective date—Severability—2006 c 178: See notes following RCW 82.75.010.

Effective date—2006 c 177 ss 1-9: See note following RCW 82.04.250.

Effective date—2006 c 84 ss 2-8: See note following RCW 82.04.2404.

Findings—Intent—2006 c 84: See note following RCW 82.04.2404.

Effective date—2005 c 514 ss 501 and 1002: See note following RCW 82.04.4463.

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

RCW 82.32.605 Annual tax performance report—Hog fuel. (Expires June 30, 2034.) (1) Every taxpayer claiming an exemption under RCW 82.08.956 or 82.12.956 must file with the department a complete annual tax performance report under RCW 82.32.534, except that the taxpayer must file a separate tax performance report for each facility owned or operated in the state of Washington.

(2) This section expires June 30, 2034. [2023 c 341 s 4; 2017 c 135 s 5; 2013 2nd sp.s. c 13 s 1004.]

Intent—2023 c 341: See note following RCW 82.08.956.

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

Intent—Effective date—2013 2nd sp.s. c 13: See notes following RCW 82.08.956.

RCW 82.32.607 Annual tax performance report for tax exemption for sales of machinery and equipment used in generating electricity.

Every taxpayer claiming an exemption under RCW 82.08.962 or 82.12.962 must file with the department a complete annual tax performance report under RCW 82.32.534, except that the taxpayer must file a separate tax performance report for each facility owned or operated in the state of Washington developed with machinery, equipment, services, or labor for which the exemption under RCW *43.136.058, 82.08.962, and 82.12.962 is claimed. [2017 c 135 s 6; 2013 2nd sp.s. c 13 s 1503.]

***Reviser's note:** RCW 43.136.058 expired January 1, 2020.

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

Intent—2013 2nd sp.s. c 13: See note following RCW 82.08.962.

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.08.956.

RCW 82.32.655 Tax avoidance. (1) It is the legislature's intent to require all taxpayers to pay their fair share of taxes. To accomplish this purpose, it is the legislature's intent to stop transactions or arrangements that are designed to unfairly avoid taxes.

(2) The department must disregard, for tax purposes, the tax avoidance transactions or arrangements that are described in subsection (3) of this section. The department must deny the tax benefit that would otherwise result from the tax avoidance transaction or arrangement. In determining whether the department must disregard a transaction or arrangement described under subsection (3) of this section, the department may consider:

(a) Whether an arrangement or transaction changes in a meaningful way, apart from its tax effects, the economic positions of the participants in the arrangement when considered as a whole;

(b) Whether substantial nontax reasons exist for entering into an arrangement or transaction;

(c) Whether an arrangement or transaction is a reasonable means of accomplishing a substantial nontax purpose;

(d) An entities' relative contributions to the work that generates income;

(e) The location where work is performed; and

(f) Other relevant factors.

(3) This section applies only to the following transactions or arrangements:

(a) Arrangements that are, in form, a joint venture or similar arrangement between a construction contractor and the owner or developer of a construction project but that are, in substance, substantially guaranteed payments for the purchase of construction services characterized by a failure of the parties' agreement to provide for the contractor to share substantial profits and bear significant risk of loss in the venture;

(b) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.04 RCW by disguising income received, or otherwise avoiding tax on income, from a person that is not affiliated with the taxpayer from business activities that would be taxable in Washington by moving that income to another entity that would not be taxable in Washington; and

(c) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.08 or 82.12 RCW by engaging in a transaction to disguise its purchase or use of tangible personal property by vesting legal title or other ownership interest in another entity over which the taxpayer exercises control in such a manner as to effectively retain control of the tangible personal property.

(4) In determining whether a transaction or arrangement comes within the scope of subsection (3) of this section, the department is not required to prove a taxpayer's subjective intent in engaging in the transaction or arrangement.

(5) The department must adopt rules to assist in determining whether a transaction or arrangement is within the scope of subsection (3) of this section. The adoption of a rule as required under this subsection is not a condition precedent for the department's exercise of the authority provided in this section. Any rules adopted under this section must include examples of transactions that the department will disregard for tax purposes.

(6) This section does not affect the department's authority to apply any other remedies available under statutory or common law.

(7) For purposes of this section, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. [2010 1st sp.s. c 23 s 201.]

Application—2010 1st sp.s. c 23 ss 201 and 202: "Except as provided in section 202 of this act, section 201 of this act applies to tax periods beginning January 1, 2006." [2010 1st sp.s. c 23 s 1703.]

Effective date—2010 1st sp.s. c 23: "Except as otherwise provided in 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 May 1, 2010." [2010 1st sp.s. c 23 s 1708.]

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

RCW 82.32.660 Tax avoidance—Statutory application. (1) (a) The department may not use RCW 82.32.655 to disregard any transaction or arrangement initiated before May 1, 2010, if, in respect to such transaction or arrangement, the taxpayer had reported its tax liability in conformance with either specific written instructions provided by the department to the taxpayer, a determination published under the authority of RCW 82.32.410, or other document made available by the department to the general public.

(b) This section does not apply if the transaction or arrangement engaged in by the taxpayer differs materially from the transaction or arrangement that was addressed in the specific written instructions, published determination, or other document made available by the department to the general public.

(2) RCW 82.32.655 does not apply to any tax periods ending before May 1, 2010, that were included in a completed field audit conducted by the department.

(3) For purposes of this section, "specific written instructions" means tax reporting instructions provided to a taxpayer and which specifically identify the taxpayer to whom the instructions apply. Specific written instructions may be provided as part of an audit, tax assessment, determination, closing agreement, or in response to a binding ruling request. [2010 1st sp.s. c 23 s 202.]

Application—2010 1st sp.s. c 23 ss 201 and 202: See note following RCW 82.32.655.

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

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

RCW 82.32.670 Tax evasion by electronic means—Seizure and forfeiture. (1) (a) Automated sales suppression devices, phantom-ware, electronic cash registers or point of sale systems used with automated sales suppression devices or phantom-ware, and any property constituting proceeds traceable to any violation of RCW 82.32.290(4) are considered contraband and are subject to seizure and forfeiture.

(b) Property subject to forfeiture under (a) of this subsection (1) may be seized by any agent of the department authorized to assess or collect taxes, or law enforcement officer of this state, upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(i) The seizure is incident to an arrest or a search under a search warrant; or

(ii) The department or the law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of RCW 82.32.290(4) and exigent circumstances exist making procurement of a search warrant impracticable.

(2) Forfeiture authorized by this section is deemed to have commenced by the seizure. Notice of seizure must be given to the department if the seizure is made by a law enforcement officer without the presence of any agent of the department. The department must cause notice of the seizure and intended forfeiture to be served on the owner of the property seized, if known, and on any other person known by the department to have a right or interest in the seized property. Such service must be made within fifteen days following the seizure or the department's receipt of notification of the seizure. The notice may be served by any method authorized by law or court rule, by certified mail with return receipt requested, or electronically in accordance with RCW 82.32.135. Service by certified mail or electronic means is deemed complete upon mailing the notice, electronically sending the notice, or electronically notifying the person or persons entitled to the notice that the notice is available to be accessed by the person or persons, within the fifteen-day period following the seizure or the department's receipt of notification of the seizure.

(3) If no person notifies the department in writing of the person's claim of lawful ownership or right to lawful possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the item or items seized are deemed forfeited.

(4) (a) If any person notifies the department, in writing, of the person's claim of lawful ownership or lawful right to possession of the item or items seized within thirty days of the date of service of the notice of seizure and intended forfeiture, the person or persons must be afforded a reasonable opportunity to be heard as to the claim. The hearing must be before the director or the director's designee. A hearing and any administrative or judicial review is governed by chapter 34.05 RCW. The burden of proof by a preponderance of the evidence is upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the item or items seized.

(b) The department must return the item or items to the claimant as soon as possible upon a determination that the claimant is the present lawful owner or is lawfully entitled to possession of the item or items seized.

(5) When property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of RCW 82.32.290(4), the department must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of RCW 82.32.290(4).

(6) (a) When automated sales suppression devices or phantom-ware voluntarily surrendered to an agent of the department, or property forfeited under this section, other than proceeds traceable to a violation of RCW 82.32.290(4), is no longer required for evidentiary purposes, the department may:

(i) Destroy or have the property destroyed;

(ii) Retain the property for training or other official purposes;

or

(iii) Loan or give the property to any law enforcement or tax administration agency of any state, political subdivision or municipal corporation of a state, or the United States for training or other official purposes. For purposes of this subsection (6) (a) (iii), "state" has the same meaning as in RCW 82.04.462.

(b) When proceeds traceable to a violation of RCW 82.32.290(4) forfeited under this section are no longer required for evidentiary purposes, they must be deposited into the general fund.

(7) The definitions in this subsection apply to this section:

(a) "Automated sales suppression device" means a software program that falsifies the electronic records of electronic cash registers or other point of sale systems, including transaction data and transaction reports. The term includes the software program, any device that carries the software program, or an internet link to the software program.

(b) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing sales transaction data in whatever manner.

(c) "Phantom-ware" means a programming option that is hidden, preinstalled, or installed-at-a-later-time in the operating system of an electronic cash register or other point of sale device, or hardwired into the electronic cash register or other point of sale

device, and that can be used to create a virtual second till or may eliminate or manipulate transaction reports that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register or other point of sale device.

(d) "Transaction data" means information about sales transactions, including items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(e) "Transaction reports" means a report that includes information associated with sales transactions, taxes collected, media totals, and discount voids at an electronic cash register that can be printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register or other point of sale device and that is stored electronically. [2017 c 323 s 401; 2013 c 309 s 3.]

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

RCW 82.32.680 Tax evasion by electronic means—Search and seizure. When the department has good reason to believe that any property subject to seizure and forfeiture under RCW 82.32.670 is being used or maintained in this state in violation of RCW 82.32.290(4)(a), the department may make affidavit of facts describing the place or thing to be searched before any judge of any superior or district court in this state. The judge may issue a search warrant directed to a law enforcement officer or agent of the department authorized under RCW 82.32.670 to seize contraband, commanding him or her to diligently search any place or thing as designated in the affidavit and search warrant, and to seize such suspected contraband and hold it until disposed of as provided by RCW 82.32.670. [2013 c 309 s 4.]

RCW 82.32.700 Administration of the sales and use tax for hospital benefit zones. (1) As a condition to imposing a sales and use tax under RCW 82.14.465, a city, town, or county must apply to the department at least seventy-five days before the effective date of any such tax. The application shall be in a form and manner prescribed by the department and shall include but is not limited to information establishing that the applicant is eligible to impose such a tax, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th. The department shall make available forms to be used for this purpose. As part of the application, a city, town, or county must provide to the department a copy of the ordinance creating the benefit zone as required in RCW 39.100.040. The department shall rule on completed applications within

sixty days of receipt. The department may begin accepting and approving applications August 1, 2006. No new applications shall be considered by the department after the thirtieth day of September of the third year following the year in which the first application was received by the department.

(2) The authority to impose the local option sales and use taxes under RCW 82.14.465 is on a first-come basis. Priority for collecting the taxes authorized under RCW 82.14.465 among approved applicants shall be based on the date that the approved application was received by the department. As a part of the approval of applications under this section, the department shall approve the amount of tax under RCW 82.14.465 that an applicant may impose. The amount of tax approved by the department shall not exceed the lesser of two million dollars or the average amount of tax revenue that the applicant estimates that it will receive in all fiscal years through the imposition of a sales and use tax under RCW 82.14.465. A city, town, or county shall not receive, in any fiscal year, more revenues from taxes imposed under RCW 82.14.465 than the amount approved by the department. The department shall not approve the receipt of more credit against the state sales and use tax than is authorized under subsection (3) of this section.

(3) No more than two million dollars of credit against the state sales and use tax provided for under RCW 82.14.465(2), may be received in any fiscal year by all cities, towns, and counties imposing a tax under RCW 82.14.465.

(4) (a) The credit against the state sales and use tax shall be available to any city, town, or county imposing a tax under RCW 82.14.465 only as long as the city, town, or county has outstanding indebtedness under chapter 39.100 RCW or the tax allocation revenues are used for public improvement costs, but in no case shall the credit be available for more than thirty years after the tax is first imposed by the city, town, or county.

(b) Local governments may pledge any receipts from taxes levied and collected under chapter 39.100 RCW and RCW 82.14.465 to the repayment of its bonds or bond anticipation notes. A local government shall notify the department when all outstanding indebtedness secured in whole or in part from receipts is no longer outstanding or tax allocation revenues are no longer used for public improvement costs, and the credit provided for under RCW 82.14.465 shall be terminated.

(5) The department may adopt any rules under chapter 34.05 RCW it considers necessary for the administration of chapter 39.100 RCW. [2007 c 266 s 9; 2006 c 111 s 9.]

Finding—Application—Effective date—2007 c 266: See notes following RCW 39.100.010.

Effective date—2006 c 111: See RCW 39.100.900.

RCW 82.32.710 Professional employer organizations—Eligibility for tax incentives—Responsibility for tax performance reports. (1) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of eligibility for any tax credit, exemption, or other tax incentive, arising as the result of the employment of covered employees, provided in RCW *82.04.4333, 82.04.44525, 82.04.448, **82.04.4483, 82.08.965,

82.12.965, 82.16.0495, or 82.60.049 or chapter 82.62 or 82.70 RCW, or any other provision in this title. A client, and not the professional employer organization, is entitled to the benefit of any tax credit, exemption, or other tax incentive arising as the result of the employment of covered employees of that client.

(2) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of tax performance reports that require the reporting of employment information relating to covered employees of the client, as provided in RCW 82.32.534. A client, and not the professional employer organization, is required to complete any tax performance report that requires the reporting of employment information relating to covered employees of that client.

(3) For the purposes of this section, "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540. [2017 c 135 s 7; 2010 c 114 s 137; 2006 c 301 s 4.]

Reviser's note: *(1) RCW 82.04.4333 was repealed by 2015 c 86 s 101.

** (2) RCW 82.04.4483 was repealed by 2017 c 323 s 504; and subsequently repealed by 2018 c 22 s 14.

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—2006 c 301: "This act takes effect July 1, 2006." [2006 c 301 s 10.]

Act does not affect application of Title 50 or 51 RCW—2006 c 301: "The provisions of this act do not affect the application of Title 50 or 51 RCW to the reporting requirement or tax liabilities of professional employer organizations or their clients." [2006 c 301 s 9.]

RCW 82.32.715 Monetary allowances—Streamlined sales and use tax agreement. (1) The department must adopt by rule monetary allowances for certified service providers selected by model 1 sellers and also for model 2 sellers. The department may be guided by the provisions for monetary allowances adopted by the governing board of the agreement to determine the amount of the allowances and the conditions under which they are allowed. The monetary allowances must be reasonable and provide adequate incentive for certified service providers and sellers to collect and remit sales and use taxes under the agreement. Monetary allowances will be funded solely from state sales and use taxes. The department may modify its rules for monetary allowances in light of the holding of the United States supreme court in *South Dakota v. Wayfair, Inc.*, Docket No. 17-494, issued June 21, 2018.

(2) For certified service providers, the monetary allowance may include a base rate that applies to taxable transactions processed by the certified service provider.

(3) For model 2 sellers, the monetary allowance may include a base rate and a percentage of revenue generated by a seller

registering under RCW 82.32.030(3), but may not exceed a period of twenty-four months. [2019 c 8 s 403; 2007 c 6 s 301.]

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

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

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

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

RCW 82.32.720 Vendor compensation—Streamlined sales and use tax agreement. (1) The department may adopt by rule vendor compensation for sellers collecting and remitting sales and use taxes. The vendor compensation may include a base rate or a percentage of tax revenue collected by the seller, and may vary by type of seller. The department may be guided by the findings of the cost of collection study performed under the agreement, by cost of collection studies performed by the department, and by vendor compensation provided by other states, to determine reasonable vendor compensation for sellers for the costs to collect and remit sales and use taxes. Vendor compensation will be funded solely from state sales and use taxes.

(2) A seller is not entitled to vendor compensation while the seller or its certified service provider receives a monetary allowance under RCW 82.32.715. [2007 c 6 s 302.]

Reviser's note: The contingency in section 302(1)(b), chapter 6, Laws of 2007 appears to have occurred June 21, 2018, causing this section to take effect June 21, 2018.

Contingent effective date—2007 c 6 s 302: "(1) Section 302 of this act takes effect when:

(a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or

(b) It is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(2) The department of revenue shall provide notice to affected taxpayers, the legislature, and others as deemed appropriate by the department, if either of the contingencies in this section occurs." [2007 c 6 s 1705.]

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

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

RCW 82.32.725 Amnesty—Streamlined sales and use tax agreement. (1) No assessment for taxes imposed or authorized under chapters

82.08, 82.12, and 82.14 RCW, or related penalties or interest, may be made by the department against a seller who:

(a) Within twelve months of the effective date of this state becoming a member state of the agreement, registers under RCW 82.32.030(3) to collect and remit to the department the applicable taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW on sales made to buyers in this state in accordance with the terms of the agreement, if the seller was not otherwise registered in this state in the twelve-month period preceding the effective date of this state becoming a member state of the agreement; and

(b) Continues to be registered and continues to collect and remit to the department the applicable taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW for a period of at least thirty-six months, absent the seller's fraud or intentional misrepresentation of a material fact.

(2) The provisions of subsection (1) of this section preclude an assessment for taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW for sales made to buyers during the period the seller was not registered in this state.

(3) The provisions of this section do not apply to any seller with respect to:

(a) Any matter or matters for which the seller, before registering to collect and remit the applicable taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW, received notice from the department of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes;

(b) Taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW and collected or remitted to the department by the seller; or

(c) That seller's liability for taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW in that seller's capacity as a buyer.

(4) The limitation periods for making an assessment or correction of an assessment prescribed in RCW *82.32.050(3) and 82.32.100(3) do not run during the thirty-six month period in subsection (1)(b) of this section. [2007 c 6 s 401.]

***Reviser's note:** RCW 82.32.050 was amended by 2008 c 181 s 501, changing subsection (3) to subsection (4).

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 82.32.730 Sourcing—Streamlined sales and use tax agreement.

(1) Except as provided in subsections (5) through (8) of this section, for purposes of collecting or paying sales or use taxes to the appropriate jurisdictions, all sales at retail shall be sourced in accordance with this subsection and subsections (2) through (4) of this section.

(a) When tangible personal property, an extended warranty, a digital good, digital code, digital automated service, or other service defined as a retail sale under RCW 82.04.050 is received by

the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) When the tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service defined as a retail sale under RCW 82.04.050 is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

(c) When (a) and (b) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(d) When (a), (b), and (c) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(e) When (a), (b), (c), or (d) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or digital code or the computer software delivered electronically was first available for transmission by the seller, or from which the extended warranty or digital automated service or other service defined as a retail sale under RCW 82.04.050 was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(2) The lease or rental of tangible personal property, other than property identified in subsection (3) or (4) of this section, shall be sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with subsection (1) of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is not altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (1) of this section.

(c) This subsection (2) does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(3) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment shall be sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location is as indicated by an address

for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location is not altered by intermittent use at different locations.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (1) of this section.

(c) This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(4) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsection (1) of this section.

(5) This subsection applies to direct mail transactions not governed by subsection (6) of this section.

(a) This subsection (5)(a) applies to sales of advertising and promotional direct mail.

(i) A purchaser of advertising and promotional direct mail may provide the seller with either:

(A) A direct pay permit;

(B) A streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department); or

(C) Information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(ii) If the purchaser provides the permit, certificate, or statement referred to in (a)(i)(A) or (B) of this subsection (5), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving advertising and promotional direct mail to which the permit, certificate, or statement applies. The purchaser must source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and must report and pay any applicable tax due.

(iii) If the purchaser provides the seller information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller must source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and must collect and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller has sourced the sale according to the delivery information provided by the purchaser.

(iv) If the purchaser does not provide the seller with any of the items listed in (a)(i)(A), (B), or (C) of this subsection (5), the sale must be sourced according to subsection (1)(e) of this section.

(b) This subsection (5)(b) applies to sales of other direct mail.

(i) Except as otherwise provided in this subsection (5)(b), sales of other direct mail are sourced in accordance with subsection (1)(c) of this section.

(ii) A purchaser of other direct mail may provide the seller with either:

(A) A direct pay permit; or

(B) A streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department).

(iii) If the purchaser provides the permit, certificate, or statement referred to in (b)(ii)(A) or (B) of this subsection (5), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving other direct mail to which the permit, certificate, or statement applies. Notwithstanding (b)(i) of this subsection (5), the sale must be sourced to the jurisdictions to which the other direct mail is to be delivered to the recipients, and the purchaser must report and pay any applicable tax due.

(6)(a) This subsection applies only with respect to transactions in which direct mail is delivered or distributed from a location within this state to a location within this state.

(b) If the purchaser of direct mail provides the seller with a direct pay permit or a streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit the applicable tax on any transaction involving direct mail to which the permit, certificate, or statement applies. The purchaser must report and pay any applicable tax due. A streamlined sales and use tax agreement certificate of exemption claiming direct mail will remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(c)(i) Except as provided in (b), (c)(ii), and (c)(iii) of this subsection (6), the seller must collect the tax according to subsection (1)(e) of this section.

(ii) To the extent the seller knows that a portion of the sale of direct mail will be delivered or distributed to locations in another state, the seller must collect the tax on that portion according to subsection (5) of this section.

(iii) Notwithstanding (c)(i) and (ii) of this subsection (6), a seller may elect to use the provisions of subsection (5) of this section to source all sales of advertising and promotional direct mail.

(7) The following are sourced to the location at or from which delivery is made to the consumer:

(a) A retail sale of watercraft;

(b) A retail sale of a modular home, manufactured home, or mobile home;

(c) A retail sale, excluding the lease and rental, of a motor vehicle, trailer, semitrailer, or aircraft, that do not qualify as transportation equipment; and

(d) Florist sales. In the case of a sale in which one florist takes an order from a customer and then communicates that order to another florist who delivers the items purchased to the place designated by the customer, the location at or from which the delivery is made to the consumer is deemed to be the location of the florist originally taking the order.

(8)(a) A retail sale of the providing of telecommunications services, as that term is defined in RCW 82.04.065, is sourced in accordance with RCW 82.32.520.

(b) A retail sale of the providing of ancillary services, as that term is defined in RCW 82.04.065, is sourced to the customer's place of primary use of the telecommunications services in respect to which the ancillary services are associated with or incidental to. The

definitions of "customer" and "place of primary use" in RCW 82.32.520 apply to this subsection (8)(b).

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

(a) "Advertising and promotional direct mail" means printed material that meets the definition of direct mail, the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this subsection (9)(a), the word "product" means tangible personal property, a product transferred electronically, or a service.

(b) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(c) "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.

(d)(i) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing. The term includes, but is not limited to:

(A) Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, and payroll advices;

(B) Any legally required mailings including, but not limited to, privacy notices, tax reports, and stockholder reports; and

(C) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

(ii) Other direct mail does not include the development of billing information or the provision of any data processing service that is more than incidental.

(e) "Florist sales" means the retail sale of tangible personal property by a florist. For purposes of this subsection (9)(e), "florist" means a person whose primary business activity is the retail sale of fresh cut flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products, used for decorative and not landscaping purposes.

(f) "Receive" and "receipt" mean taking possession of tangible personal property, making first use of digital automated services or other services, or taking possession or making first use of digital goods or digital codes, whichever comes first. "Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(g) "Transportation equipment" means:

(i) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce;

(ii) Trucks and truck tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) Registered through the international registration plan; and

(B) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(iii) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

(iv) Containers designed for use on and component parts attached or secured on the items described in (g) (i) through (iii) of this subsection.

(10) In those instances where there is no obligation on the part of a seller to collect or remit this state's sales or use tax, the use of tangible personal property, digital good, digital code, or of a digital automated service or other service, subject to use tax, is sourced to the place of first use in this state. The definition of use in RCW 82.12.010 applies to this subsection. [2010 c 106 s 229. Prior: 2009 c 535 s 704; 2009 c 289 s 1; 2008 c 324 s 1; 2007 c 6 s 501.]

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

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

Effective date—2008 c 324: "This act takes effect July 1, 2008." [2008 c 324 s 2.]

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 82.32.735 Confidentiality and privacy—Certified service providers—Streamlined sales and use tax agreement. (1) A fundamental precept of allowing the use of a certified service provider is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

(2) The department shall provide public notification to consumers, including purchasers claiming exemption from tax, of its practices relating to the collection, use, and retention of personally identifiable information.

(3) When personally identifiable information that has been collected and retained is no longer required to ensure the validity of exemptions from taxation by reason of the consumer's status or the intended use of the goods or services purchased, the information shall no longer be retained by the state of Washington.

(4) When personally identifiable information regarding an individual is retained by or on behalf of the state of Washington, this state shall provide reasonable access for the individual to his or her own information and a right to correct any inaccurately recorded information.

(5) If anyone other than a member state of the agreement, or other than a person authorized by Washington law or the agreement, seeks to discover personally identifiable information, the state of Washington shall make a reasonable and timely effort to notify the individual of the request.

(6) The provisions of this section may be enforced by petitioning the superior court of Thurston county for injunctive relief. [2007 c 6 s 601.]

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 82.32.740 Taxability matrix—Liability—Streamlined sales and use tax agreement. (1) The department must complete a taxability matrix maintained by the member states of the agreement in downloadable format. The matrix contains terms defined in the agreement and the disclosure of the state's practices in the administration of sales and use taxes as required under section 335 of the agreement. The department must provide notice of changes in the taxability of products or services listed in the matrix. The department must also provide notice of changes in the state's treatment of practices identified in the matrix.

(2) (a) Sellers and certified service providers are relieved from liability to the state and to local jurisdictions for having charged or collected the incorrect amount of sales or use tax if the error resulted from reliance on erroneous information provided by the department in the taxability matrix.

(b) Beginning July 1, 2015, if the taxability matrix is amended, sellers and certified service providers are relieved from liability to the state and to local jurisdictions to the extent that the seller or certified service provider relied on the immediately preceding version of the state's taxability matrix. Relief under this subsection (2) (b) is available until the first day of the calendar month that is at least thirty days after the department submits notice of a change to the state's taxability matrix to the streamlined sales tax governing board. [2015 c 86 s 401; 2007 c 6 s 701.]

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 82.32.745 Software certification by department—Classifications—Liability—Streamlined sales and use tax agreement.

(1) The department shall review software submitted to the governing board of the agreement for certification as a certified automated system under the terms of the agreement. The review shall include a determination of whether the software adequately classifies this state's product-based sales tax exemptions. Upon completing the review, the department shall certify to the governing board its acceptance or rejection of the classifications made by the system.

(2) Certified service providers and model 2 sellers shall be held harmless and are not liable for sales or use taxes, nor interest or penalties on those taxes, not collected due to reliance on the certification of the department under subsection (1) of this section.

(3) The relief from liability provided to certified service providers and model 2 sellers under subsection (2) of this section does not apply with respect to the incorrect classification of an item or transaction into a product-based exemption certified by the department unless that item or transaction is contained in a listing of items or transactions within a product definition approved by the governing board or the department.

(4) If the department determines that an item or transaction is incorrectly classified as to its taxability, it shall notify the certified service provider or model 2 seller of the incorrect classification. The certified service provider or model 2 seller has ten days to revise the classification after receipt of notice from the department. Upon the expiration of the ten days, the certified service provider or model 2 seller is liable for the failure to collect the correct amount of sales or use taxes. [2007 c 6 s 702.]

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 82.32.750 Purchaser liability—Penalty—Streamlined sales and use tax agreement. (1) Purchasers are relieved from liability for tax, interest, and penalty for having failed to pay the correct amount of sales or use tax in any of the following circumstances:

(a) A purchaser's seller or certified service provider relied on erroneous data provided by the department on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix completed by the department pursuant to RCW 82.32.740;

(b) A purchaser holding a direct pay permit relied on erroneous data provided by the department on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix completed by the department pursuant to RCW 82.32.740;

(c) A purchaser relied on erroneous data provided by the department in the taxability matrix completed by the department pursuant to RCW 82.32.740; or

(d) A purchaser relied on erroneous data provided by the department on tax rates, boundaries, or taxing jurisdiction assignments.

(2) For purposes of this section, "penalty" means an amount imposed for noncompliance that is not fraudulent, willful, or intentional that is in addition to the correct amount of sales or use tax and interest. [2007 c 6 s 703.]

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 82.32.762 Remote seller nexus—Streamlined sales and use tax agreement or federal law conflict with state law. (1) If the department determines that a change, taking effect after March 14, 2019, in the streamlined sales and use tax agreement or federal law creates a conflict with any provision of chapter 8, Laws of 2019, such conflicting provision or provisions of chapter 8, Laws of 2019, including any related provisions that would not function as originally intended, have no further force and effect as of the date the change in the streamlined sales and use tax agreement or federal law becomes effective.

(2) For purposes of this section:

(a) A change in federal law conflicts with chapter 8, Laws of 2019 if the change clearly prevents states from imposing sales and use tax collection obligations on remote sellers to the extent provided for under chapter 8, Laws of 2019.

(b) A change in the streamlined sales and use tax agreement conflicts with chapter 8, Laws of 2019 if one or more provisions of chapter 8, Laws of 2019 causes this state to be found out of compliance with the streamlined sales and use tax agreement by its governing board.

(3) (a) If the department makes a determination under this section that a change in federal law or the streamlined sales and use tax agreement conflicts with one or more provisions of chapter 8, Laws of 2019:

(i) For purposes of conflicts between the streamlined sales and use tax agreement and chapter 8, Laws of 2019, the department may adopt rules in accordance with chapter 34.05 RCW, including emergency rules, that are consistent with the streamlined sales and use tax agreement; and

(ii) For purposes of conflicts between federal law and chapter 8, Laws of 2019, the department must, by rule or rules adopted in accordance with chapter 34.05 RCW, including emergency rules:

(A) Impose sales and use tax collection obligations and business and occupation tax on remote sellers to the fullest extent allowed under state and federal law, which may include adopting provisions identical or substantially similar to those in sections 202 and 204(6)(c)(ii), chapter 5, Laws of 2015 3rd sp. sess.; and

(B) Implement election, notice, and reporting provisions substantially similar to those in sections 202 through 207, chapter 28, Laws of 2017 3rd sp. sess. The department must impose such election, notice, and reporting provisions only on remote sellers and marketplace facilitators against whom the department is unable to enforce a tax collection obligation as a result of a change in federal law. The department must not impose election, notice, and reporting provisions on referrers as defined in section 204, chapter 28, Laws of 2017 3rd sp. sess. The department must impose penalties for failure to comply with notice or reporting requirements consistent with those penalties imposed in section 206, chapter 28, Laws of 2017 3rd sp. sess.

(b) For purposes of (a)(i) and (ii) of this subsection (3), the department must include information on its website informing taxpayers and the public (i) of the provision or provisions of chapter 8, Laws of 2019 that will have no further force and effect, (ii) when such change will become effective, and (iii) about how to participate in any rule making conducted by the department in accordance with (a)(i) and (ii) of this subsection (3).

(4) For purposes of this section, "remote seller" and "marketplace facilitator" have the same meaning as in RCW 82.13.010 through June 30, 2019, and RCW 82.08.010 beginning July 1, 2019. [2019 c 8 s 404; 2015 3rd sp.s. c 5 s 205.]

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

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

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

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

RCW 82.32.765 Local revitalization financing—Reporting requirements. (1) A sponsoring local government receiving a project award under RCW 39.104.100 must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

- (a) The amounts of local property tax allocation revenues received in the preceding calendar year broken down by sponsoring local government and participating taxing district;
- (b) The amount of state property tax allocation revenues estimated to have been received by the state in the preceding calendar year;
- (c) The amount of local sales and use tax and other revenue from local public sources dedicated by any participating local government used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;
- (d) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis;
- (e) The amounts, other than those listed in (a) through (d) of this subsection, from local public sources, broken down by type or source, used for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;
- (f) The anticipated date when bonds under RCW 39.104.110 are expected to be retired;
- (g) The names of any businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;
- (h) An estimate of the cumulative number of permanent jobs created in the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;
- (i) An estimate of the average wages and benefits received by all employees of businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local

government and financed in whole or in part with local revitalization financing;

(j) A list of public improvements financed by bonds issued under RCW 39.104.110 and the date on which the bonds are anticipated to be retired;

(k) That the sponsoring local government is in compliance with RCW 39.104.030;

(l) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments estimated to have been received since the approval of the project award under RCW 39.104.100;

(m) The amount of revenues from local public sources that (i) were expended in prior years for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in prior calendar years that were in excess of the project award amount for that year and are carried forward for dedication in future years, (ii) are deemed dedicated to payment of bonds or public improvement costs in the calendar year for which the report is prepared, and (iii) remain available for dedication in future years; and

(n) Any other information required by the department to enable the department to fulfill its duties under this chapter and RCW 82.14.510.

(2) The department must make a report available to the public and the legislature by June 1st of each year. The report must include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section. [2016 c 207 s 5; 2010 c 164 s 10; 2009 c 270 s 501.]

RCW 82.32.770 Sourcing compliance—Taxpayer relief—Collection and remittance errors. (1) Notwithstanding any other provision in this chapter, no interest or penalties may be imposed on any taxpayer because of errors in collecting or remitting the correct amount of local sales or use tax arising out of changes in local sales and use tax sourcing rules implemented under RCW 82.14.490 and section 502, chapter 6, Laws of 2007 if the taxpayer demonstrates that it made a good faith effort to comply with the sourcing rules.

(2) The relief from penalty and interest provided by subsection (1) of this section only applies to taxpayers with a gross income of the business of less than five hundred thousand dollars in the prior calendar year.

(3) The relief from penalty and interest provided by subsection (1) of this section does not apply with respect to sales occurring after December 31, 2012. [2009 c 289 s 5.]

RCW 82.32.780 Reseller's permit—Taxpayer application. (1) (a) Taxpayers seeking to obtain a new reseller permit or to renew or reinstate a reseller permit, other than taxpayers subject to the provisions of RCW 82.32.783, must apply to the department in a form and manner prescribed by the department. The department must use its best efforts to rule on applications within sixty days of receiving a complete application. If the department fails to rule on an application within sixty days of receiving a complete application, the taxpayer may either request a review as provided in subsection (6) of

this section or resubmit the application. Nothing in this subsection may be construed as preventing the department from ruling on an application more than sixty days after the department received the application.

(b) An application must be denied if:

(i) The department determines that, based on the nature of the applicant's business, the applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a reseller permit;

(ii) The application contains any material misstatement; or

(iii) The application is incomplete.

(c) The department may also deny an application if it determines that denial would be in the best interest of collecting taxes due under this title.

(d) The department's decision to approve or deny an application may be based on tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant in the master application and the reseller permit application, and other information available to the department.

(e) The department must refuse to accept an application to renew a reseller permit that is received more than ninety days before the expiration of the reseller permit.

(2) Notwithstanding subsection (1) of this section, the department may issue or renew a reseller permit for a taxpayer that has not applied for the permit or renewal of the permit if it appears to the department's satisfaction, based on the nature of the taxpayer's business activities and any other information available to the department, that the taxpayer is entitled to make purchases at wholesale.

(3) (a) Except as otherwise provided in this section, reseller permits issued, renewed, or reinstated under this section will be valid for a period of forty-eight months from the date of issuance, renewal, or reinstatement.

(b) (i) A reseller permit is valid for a period of twenty-four months and may be renewed for the period prescribed in (a) of this subsection (3) if the permit is issued to a taxpayer who:

(A) Is not registered with the department under RCW 82.32.030;

(B) Has been registered with the department under RCW 82.32.030 for a continuous period of less than one year as of the date that the department received the taxpayer's application for a reseller permit;

(C) Was on nonreporting status as authorized under RCW 82.32.045(5) at the time that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit;

(D) Has filed tax returns reporting no business activity for purposes of sales and business and occupation taxes for the twelve-month period immediately preceding the date that the department received the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit; or

(E) Has failed to file tax returns covering any part of the twelve-month period immediately preceding the department's receipt of the taxpayer's application for a reseller permit or to renew or reinstate a reseller permit.

(ii) The provisions of this subsection (3) (b) do not apply to reseller permits issued to any business owned by a federally recognized Indian tribe or by an enrolled member of a federally recognized Indian tribe, if the business does not engage in any

business activity that subjects the business to any tax imposed by the state under chapter 82.04 RCW. Permits issued to such businesses are valid for the period provided in (a) of this subsection (3).

(iii) Nothing in this subsection (3)(b) may be construed as affecting the department's right to deny a taxpayer's application for a reseller permit or to renew or reinstate a reseller permit as provided in subsection (1)(b) and (c) of this section.

(c) A reseller permit is no longer valid if the permit holder's certificate of registration is revoked, the permit holder's tax reporting account is closed by the department, or the permit holder otherwise ceases to engage in business.

(d) The department may provide by rule for a uniform expiration date for reseller permits issued, renewed, or reinstated under this section, if the department determines that a uniform expiration date for reseller permits will improve administrative efficiency for the department. If the department adopts a uniform expiration date by rule, the department may extend or shorten the twenty-four or forty-eight month period provided in (a) and (b) of this subsection for a period not to exceed six months as necessary to conform the reseller permit to the uniform expiration date.

(4)(a) The department may revoke a taxpayer's reseller permit for any of the following reasons:

(i) The taxpayer used or allowed or caused its reseller permit to be used to purchase any item or service without payment of sales tax, but the taxpayer or other purchaser was not entitled to use the reseller permit for the purchase;

(ii) The department issued the reseller permit to the taxpayer in error;

(iii) The department determines that the taxpayer is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the reseller permit would be in the best interest of collecting taxes due under this title.

(b) The notice of revocation must be in writing and is effective on the date specified in the revocation notice. The notice must also advise the taxpayer of its right to a review by the department.

(c) The department may refuse to reinstate a reseller permit revoked under (a)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a taxpayer whose reseller permit has been revoked under this subsection reorganizes, the new business resulting from the reorganization is not entitled to a reseller permit until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(d) For purposes of this subsection, "reorganize" or "reorganization" means: (i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly; (ii) a mere change in identity or form of ownership, however effected; or (iii) the new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(5) The department may provide the public with access to reseller permit numbers on its website, including the name of the permit holder, the status of the reseller permit, the expiration date of the

permit, and any other information that is disclosable under RCW 82.32.330(3)(k).

(6) The department must provide by rule for the review of the department's decision to deny, revoke, or refuse to reinstate a reseller permit or the department's failure to rule on an application within the time prescribed in subsection (1)(a) of this section. Such review must be consistent with the requirements of chapter 34.05 RCW.

(7) As part of its continuing efforts to educate taxpayers on their sales and use tax responsibilities, the department will educate taxpayers on the appropriate use of a reseller permit or other documentation authorized under RCW 82.04.470 and the consequences of misusing such permits or other documentation. [2020 c 139 s 40; 2010 c 112 s 2; 2009 c 563 s 201.]

Effective date—2010 c 112 ss 2, 3, 11, 12, and 15: "Sections 2, 3, 11, 12, and 15 of this act take effect July 1, 2010." [2010 c 112 s 18.]

Retroactive application—2010 c 112: "(1) Except as provided in subsection (2) of this section, this act applies retroactively to January 1, 2010, as well as prospectively.

(2) Sections 2, 3, 11, 12, and 15 of this act apply prospectively only." [2010 c 112 s 17.]

Finding—Intent—2010 c 112; 2009 c 563: "The legislature finds that the department of revenue's 2008 compliance study estimates that sales tax noncompliance exceeds well over one hundred million dollars annually in unpaid state and local sales and use taxes.

The legislature intends to address this significant problem by eliminating the use of resale certificates to document wholesale purchases. Resale certificates will be replaced with reseller permits, which will be issued by the department of revenue only to those businesses that make wholesale purchases, such as retailers, wholesalers, manufacturers, and qualified contractors. Businesses that do not make wholesale purchases, such as most service businesses, will not be entitled to a reseller permit." [2010 c 112 s 1; 2009 c 563 s 101.]

Construction—2009 c 563: "This act must be liberally construed in order to carry out its purposes." [2009 c 563 s 402.]

Effective date—2009 c 563: "This act takes effect January 1, 2010." [2009 c 563 s 403.]

Reports and recommendations—2009 c 563: "By December 1, 2009, the finance committee of the house of representatives and the joint legislative task force on the underground economy in the Washington state construction industry, shall each prepare a report that reviews the issues and concerns that need to be addressed by the legislature as a result of the changes made in this act. The reports shall include any recommendations on potential modifications to the provisions of this act. The department of revenue shall provide necessary support and information." [2009 c 563 s 405.]

Construction—2009 c 563: "The effective date in section 403 of this act may not be construed as preventing the department of revenue

from accepting applications for, or issuing, seller's permits before January 1, 2010, adopting rules, or taking any other action before January 1, 2010, necessary to ensure the effective implementation of this act." [2009 c 563 s 404.]

RCW 82.32.783 Reseller's permit—Contractor application. (1) (a)

Contractors seeking a new reseller permit or to renew or reinstate a reseller permit must apply to the department in a form and manner prescribed by the department.

(b) As part of the application, the contractor must report the total combined dollar amount of all purchases of materials and labor during the preceding 24 months for retail construction activity, wholesale construction activity, speculative building, public road construction, and government contracting. If the contractor was not engaged in business as a contractor during the preceding 24 months, the contractor may provide an estimate of the dollar amount of purchases of materials and labor for retail construction activity, wholesale construction activity, speculative building, public road construction, and government contracting during the 12-month or 24-month period for which the reseller permit will be valid. The contractor must also report the percentage of its total dollar amount of actual or, if applicable, estimated material and labor purchases that was for retail and wholesale construction activity performed by the applicant.

(c) The department must use its best efforts to rule on applications within 60 days of receiving a complete application. If the department fails to rule on an application within 60 days of receiving a complete application, the taxpayer may either request a review as provided in subsection (6) of this section or resubmit the application. Nothing in this subsection may be construed as preventing the department from ruling on an application more than 60 days after the department received the application.

(d) (i) An application must be denied if:

(A) The department determines that the applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a reseller permit;

(B) The application contains any material misstatement;

(C) The application is incomplete; or

(D) Less than 25 percent of the taxpayer's total dollar amount of actual or, if applicable, estimated material and labor purchases as reported on the application is for retail and wholesale construction activity performed by the applicant. However, the department may approve an application not meeting the criteria in this subsection (1) (d) (i) (D) if the department is satisfied that approval is unlikely to jeopardize collection of the taxes due under this title.

(ii) The department may also deny an application if the department determines that denial would be in the best interest of collecting taxes due under this title.

(iii) The department's decision to approve or deny an application may be based on tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant in the master application and the reseller permit application, and other information available to the department.

(e) The department must refuse to accept an application to renew a reseller permit that is received more than 90 days before the expiration of the reseller permit.

(2) Notwithstanding subsection (1) of this section, the department may issue or renew a reseller permit for a contractor that has not applied for the permit or renewal of the permit if the department is satisfied that the contractor is entitled to make purchases at wholesale and that issuing or renewing the reseller permit is unlikely to jeopardize collection of sales taxes due under this title based on criteria established by the department by rule. Such criteria may include but is not limited to whether the taxpayer has a previous history of misusing resale certificates or reseller permits or there is any other indication that issuing or renewing the reseller permit would jeopardize collection of sales taxes due from the contractor.

(3) (a) Except as otherwise provided in (b) of this subsection, beginning July 1, 2013, reseller permits issued, renewed, or reinstated under this section will be valid for a period of 24 months from the date of issuance, renewal, or reinstatement.

(b) (i) A reseller permit is no longer valid if the permit holder's certificate of registration is revoked, the permit holder's tax reporting account is closed by the department, or the permit holder otherwise ceases to engage in business.

(ii) The department may provide by rule for a uniform expiration date for reseller permits issued, renewed, or reinstated under this section, if the department determines that a uniform expiration date for reseller permits will improve administrative efficiency for the department. If the department adopts a uniform expiration date by rule, the department may extend or shorten the 24-month period provided in (a) of this subsection for a period not to exceed six months as necessary to conform the reseller permit to the uniform expiration date.

(4) (a) The department may revoke a contractor's reseller permit for any of the following reasons:

(i) The contractor used or allowed or caused its reseller permit to be used to purchase any item or service without payment of sales tax, but the contractor or other purchaser was not entitled to use the reseller permit for the purchase;

(ii) The department issued the reseller permit to the contractor in error;

(iii) The department determines that the contractor is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the reseller permit would be in the best interest of collecting taxes due under this title.

(b) The notice of revocation must be in writing and is effective on the date specified in the revocation notice. The notice must also advise the contractor of its right to a review by the department.

(c) The department may refuse to reinstate a reseller permit revoked under (a) (i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a contractor whose reseller permit has been revoked under this subsection reorganizes, the new business resulting from the reorganization is not entitled to a reseller permit until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(d) For purposes of this subsection, "reorganize" or "reorganization" means: (i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly; (ii) a mere change in identity or form of ownership, however effected; or (iii) the new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(5) The department may provide the public with access to reseller permit numbers on its website, including the name of the permit holder, the status of the reseller permit, the expiration date of the permit, and any other information that is disclosable under RCW 82.32.330(3)(k).

(6) The department must provide by rule for the review of the department's decision to deny, revoke, or refuse to reinstate a reseller permit or the department's failure to rule on an application within the time prescribed in subsection (1)(a) of this section. Such review must be consistent with the requirements of chapter 34.05 RCW.

(7) As part of its continuing efforts to educate taxpayers on their sales and use tax responsibilities, the department will educate taxpayers on the appropriate use of a reseller permit or other documentation authorized under RCW 82.04.470 and the consequences of misusing such permits or other documentation.

(8) As used in this section, the following definitions apply:

(a) "Contractor" means a person whose primary business activity is as a contractor which includes one or more contractor-related activities as defined in RCW 18.27.010, 18.106.010, or 19.28.006.

(b) "Government contracting" means the activity described in RCW 82.04.190(6).

(c) "Public road construction" means the activity described in RCW 82.04.190(3).

(d) "Retail construction activity" means any activity defined as a retail sale in RCW 82.04.050(2)(b) or (c).

(e) "Speculative building" means the activities of a speculative builder as the term "speculative builder" is defined by rule of the department.

(f) "Wholesale construction activity" means labor and services rendered for persons who are not consumers in respect to real property, if such labor and services are expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For purposes of this subsection (8)(f), "consumer" has the same meaning as in RCW 82.04.190. [2024 c 252 s 3; 2010 c 112 s 3; 2009 c 563 s 202.]

Effective date—2010 c 112 ss 2, 3, 11, 12, and 15: See note following RCW 82.32.780.

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.

RCW 82.32.784 Reseller's permit—Information required. (1)

Reseller permits issued by the department, as provided under RCW 82.32.780 and 82.32.783, will be in a form prescribed by the department, which may include an electronic form. Reseller permits must contain the following information:

- (a) A unique identifying number assigned by the department;
- (b) The name and address of the permit holder;
- (c) The type of business engaged in;
- (d) The date the permit was issued, renewed, or reinstated by the department; and
- (e) The expiration date of the permit.

(2) Reseller permits may also contain such other information as required by the department, including, but not limited to:

- (a) The categories of items or services to be purchased for resale or that are otherwise to be purchased at wholesale;
- (b) The date that the permit was provided to the seller;
- (c) A statement that the items or services purchased either: (i) Are purchased for resale in the regular course of business; or (ii) are otherwise purchased at wholesale;
- (d) A statement that the permit holder acknowledges that misuse of [a] reseller permit or reseller permit number subjects the permit holder to revocation of the reseller permit, penalties as provided in RCW 82.32.290 and 82.32.291, in addition to the tax, interest, and any other penalties imposed by law;
- (e) Instructions for renewing the permit;
- (f) A statement that the department is authorized to obtain information concerning the permit holder's purchase of items or services under the permit from the seller to verify whether the permit holder was authorized to purchase such items or services without payment of retail sales tax; and
- (g) The signature of the permit holder, unless a copy of the permit is provided to the seller in a format other than paper. [2010 c 112 s 4.]

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

RCW 82.32.785 Reseller's permit—Voluntary electronic verification. The department of revenue must, by January 1, 2011, develop a system, as resources permit, allowing sellers to voluntarily verify through electronic means whether their customers' reseller permits are valid. [2010 c 112 s 5; 2009 c 563 s 203.]

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.

RCW 82.32.787 Reseller's permit—Request for copies. A person must, upon request of the department, provide the department with paper or electronic copies of all reseller permits, or other documentation as authorized in RCW 82.04.470, accepted by that person during the period specified by the department to substantiate

wholesale sales. If, instead of the documentation specified in this subsection, the seller has retained the relevant data elements from such permits or other documentation authorized in RCW 82.04.470, as allowed under the streamlined sales and use tax agreement, the seller must provide such data elements to the department. [2010 c 112 s 6; 2009 c 563 s 204.]

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.

RCW 82.32.790 Tax incentives contingent upon semiconductor microchip fabrication facility siting and operation. (Contingent expiration date.) (1) (a) RCW 82.04.426, 82.04.448, 82.08.965, 82.08.970, 82.12.965, 82.12.970, 84.36.645, and 82.04.241 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, 2034.

(b) For the purposes of this section:

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

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

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least \$500,000,000.

(2) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, if the contract is signed and received by January 1, 2034, as determined by the director of the department of revenue.

(3) (a) The department of revenue must provide notice of the effective date of the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, the office of the code reviser, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that are no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.241 or claiming an exemption or credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not authorized to make a second determination regarding the effective date of the sections referenced in subsection (1) of this section.

(4) (a) This section expires January 1, 2034, if the contingency in subsection (2) of this section does not occur by January 1, 2034, as determined by the department.

(b) The department must provide written notice of the expiration date of this section and the sections referenced in subsection (1) of

this section to affected taxpayers, the legislature, the office of the code reviser, and others as deemed appropriate by the department. [2024 c 261 s 1. Prior: 2022 c 56 s 11; 2019 c 449 s 2; 2017 3rd sp.s. c 37 s 526; (2017 3rd sp.s. c 37 s 525 expired January 1, 2018); prior: 2017 c 323 s 509; 2017 c 135 s 47; prior: 2010 c 114 s 201; 2010 c 106 s 401; 2009 c 461 s 9; 2006 c 300 s 12; 2003 c 149 s 12.]

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

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

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

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

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

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

RCW 82.32.800 Contributions of high-technology research and development tax credit—Opportunity expansion account. A person eligible for the high-technology research and development tax credit under *RCW 82.04.4452 may contribute all or any portion of the credit to the opportunity expansion account hereby created in the state treasury. The department must create the forms and processes to allow a person to make such an election easily and quickly by means of checking a box. By May 1, 2012, and by May 1st of every year thereafter, the department must report the amount so contributed and certify the amount to the state treasurer. By July 1, 2012, and by July 1st of every year thereafter, the state treasurer must transfer the amount into the opportunity expansion account. Money in the account may only be appropriated for the purposes specified in RCW 28B.145.060. [2011 1st sp.s. c 13 s 10.]

***Reviser's note:** RCW 82.04.4452 expired January 1, 2015.

Finding—Intent—Short title—Effective date—2011 1st sp.s. c 13: See RCW 28B.145.005, 28B.145.900, and 28B.145.901.

RCW 82.32.805 Tax preferences—Expiration dates. (1) (a) Except as otherwise provided in this section, every new tax preference expires on the first day of the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference. With respect to any new property tax exemption, the exemption does not apply to taxes levied for collection beginning in the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference.

(b) If a new tax preference applies to both a state tax and a corresponding local tax that the department administers, such as a state and local sales and use tax exemption, the expiration of that new tax preference under this subsection applies to both the state and local tax.

(c) A future amendment that expands a tax preference does not extend the tax preference beyond the period provided in this subsection unless an extension is expressly and unambiguously stated in the amendment.

(2) Subsection (1) of this section does not apply if legislation creating a new tax preference includes an expiration date for the new tax preference or an exemption from this section in its entirety or from the provisions of subsection (1) of this section, whether or not such exemption is codified.

(3) Subsection (1) of this section does not apply to any existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency. Future enacted legislation intended to make such clarifications or corrections must explicitly indicate this intent.

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

(a) "New tax preference" means a tax preference that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is expanded or extended after August 1, 2013, even if the expanding or extending amendment includes any other change to the tax preference.

(b) "Tax preference" has the same meaning as in RCW 43.136.021 with respect to any state tax administered by the department, except does not include the Washington estate and transfer tax in chapter 83.100 RCW.

(5) The department must provide written notice to the office of the code reviser of a ten-year expiration date required under this section for a new tax preference. [2021 c 145 s 20; 2020 c 139 s 57; 2013 2nd sp.s. c 13 s 1701.]

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

RCW 82.32.808 Tax preferences—Performance statement

requirement. (1) As provided in this section, every bill enacting a new tax preference must include a tax preference performance statement, unless the legislation enacting the new tax preference contains an explicit exemption from the requirements of this section.

(2) A tax preference performance statement must state the legislative purpose for the new tax preference. The tax preference performance statement must indicate one or more of the following general categories, by reference to the applicable category specified in this subsection, as the legislative purpose of the new tax preference:

(a) Tax preferences intended to induce certain designated behavior by taxpayers;

(b) Tax preferences intended to improve industry competitiveness;

(c) Tax preferences intended to create or retain jobs;

(d) Tax preferences intended to reduce structural inefficiencies in the tax structure;

(e) Tax preferences intended to provide tax relief for certain businesses or individuals; or

(f) A general purpose not identified in (a) through (e) of this subsection.

(3) In addition to identifying the general legislative purpose of the tax preference under subsection (2) of this section, the tax preference performance statement must provide additional detailed information regarding the legislative purpose of the new tax preference.

(4) A new tax preference performance statement must specify clear, relevant, and ascertainable metrics and data requirements that allow the joint legislative audit and review committee and the legislature to measure the effectiveness of the new tax preference in achieving the purpose designated under subsection (2) of this section.

(5) If the tax preference performance statement for a new tax preference indicates a legislative purpose described in subsection (2)(b) or (c) of this section, any taxpayer claiming the new tax preference must file an annual tax performance report in accordance with RCW 82.32.534.

(6)(a) Taxpayers claiming a new tax preference must report the amount of the tax preference claimed by the taxpayer to the department as otherwise required by statute or determined by the department as part of the taxpayer's regular tax reporting responsibilities. For new tax preferences allowing certain types of gross income of the business to be excluded from business and occupation or public utility taxation, the tax return must explicitly report the amount of the exclusion, regardless of whether it is structured as an exemption or deduction, if the taxpayer is otherwise required to report taxes to the department on a monthly or quarterly basis. For a new sales and use tax exemption, the total purchase price or value of the exempt product or service subject to the exemption claimed by the buyer must be reported on an addendum to the buyer's tax return if the buyer is otherwise required to report taxes to the department on a monthly or quarterly basis and the buyer is required to submit an exemption certificate, or similar document, to the seller.

(b) This subsection does not apply to:

(i) Property tax exemptions;

(ii) Tax preferences required by constitutional law;

(iii) Tax preferences for which the tax benefit to the taxpayer is less than one thousand dollars per calendar year; or

(iv) Taxpayers who are annual filers.

(c) The department may waive the filing requirements of this subsection for taxpayers who are not required to file electronically any return or report under this chapter.

(7)(a) Except as otherwise provided in this subsection, the amount claimed by a taxpayer for any new tax preference is subject to public disclosure and is not considered confidential tax information under RCW 82.32.330, if the reporting periods subject to disclosure ended at least twenty-four months prior to the date of disclosure and the taxpayer is required to report the amount of the tax preference claimed by the taxpayer to the department under subsection (6) of this section.

(b)(i) The department may waive the public disclosure requirement under (a) of this subsection (7) for good cause. Good cause may be demonstrated by a reasonable showing of economic harm to a taxpayer if the information specified under this subsection is disclosed. The

waiver under this subsection (7) (b) (i) only applies to the new tax preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

(ii) The amount of the tax preference claimed by a taxpayer during a calendar year is confidential under RCW 82.32.330 and may not be disclosed under this subsection if the amount for the calendar year is less than ten thousand dollars.

(c) In lieu of the disclosure and waiver requirements under this subsection, the requirements under RCW 82.32.534 apply to any tax preference that requires a tax performance report.

(8) If a new tax preference does not include the information required under subsections (2) through (4) of this section, the joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW, and it is legislatively presumed that it is the intent of the legislature to allow the new tax preference to expire upon its scheduled expiration date.

(9) For the purposes of this section, "tax preference" and "new tax preference" have the same meaning as provided in RCW 82.32.805.

(10) The provisions of this section do not apply to the extent that legislation creating a new tax preference provides an exemption, in whole or in part, from this section, whether or not such exemption is codified. [2020 c 139 s 58; 2017 c 135 s 8; 2013 2nd sp.s. c 13 s 1702.]

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

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

RCW 82.32.850 Significant commercial airplane manufacturing—Tax preference—Contingent effective date. (1) Chapter 2, Laws of 2013 3rd sp. sess. takes effect contingent upon the siting of a significant commercial airplane manufacturing program in the state of Washington. If a significant commercial airplane manufacturing program is not sited in the state of Washington by June 30, 2017, chapter 2, Laws of 2013 3rd sp. sess. does not take effect.

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

(a) "Commercial airplane" has the same meaning provided in RCW 82.32.550.

(b) "New model, or any version or variant of an existing model, of a commercial airplane" means a commercial airplane manufactured with a carbon fiber composite fuselage or carbon fiber composite wings or both.

(c) "Significant commercial airplane manufacturing program" means an airplane program in which the following products, including final assembly, will commence manufacture at a new or existing location within Washington state on or after July 9, 2014:

(i) The new model, or any version or variant of an existing model, of a commercial airplane; and

(ii) Fuselages and wings of a new model, or any version or variant of an existing model, of a commercial airplane.

(d) "Siting" means a final decision, made on or after November 1, 2013, by a manufacturer to locate a significant commercial airplane manufacturing program in Washington state.

(3) The department must make a determination regarding whether the contingency in subsection (1) of this section occurs and must provide written notice of the date on which such contingency occurs and chapter 2, Laws of 2013 3rd sp. sess. takes effect. If the department determines that the contingency in subsection (1) of this section has not occurred by June 30, 2017, the department must provide written notice stating that chapter 2, Laws of 2013 3rd sp. sess. does not take effect. Written notice under this subsection (3) must be provided to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department. [2013 3rd sp.s. c 2 s 2.]

Reviser's note: The department of revenue determined that the contingency in section 2, chapter 2 (Engrossed Substitute Senate Bill No. 5952), Laws of 2013 3rd sp.s. occurred and that the bill took effect July 9, 2014.

Findings—Intent—2013 3rd sp.s. c 2: "(1) The legislature finds that the people of Washington have benefited enormously from the presence of the aerospace industry in Washington state. The legislature further finds that the industry continues to provide good wages and benefits for the thousands of engineers, mechanics, and support staff 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, and 2007, the legislature determined it was in the public interest to encourage the continued presence of the aerospace industry through the provision of tax incentives. To this end, and in recognition of the continuing extreme importance of the aerospace industry in Washington, it is the legislature's intent to reaffirm and build upon prior aerospace tax incentive legislation in a fiscally prudent manner.

(2) The legislature categorizes the tax preferences extended in this act as intended to create or retain jobs, as indicated in RCW 82.32.808(2)(c).

(3) It is the legislature's specific public policy objective to maintain and grow Washington's aerospace industry workforce. To help achieve this public policy objective, it is the legislature's intent to conditionally extend aerospace industry tax preferences until July 1, 2040, in recognition of intent by the state's aerospace industry sector to maintain and grow its workforce within the state.

(4) The joint legislative audit and review committee must review the tax preferences provided in this act and report to the legislature by December 1, 2019, and every five years thereafter. As part of its tax preference reviews, the committee must specifically assess changes in aerospace industry employment in Washington in comparison with other states and internationally. To the extent practicable, the committee must use occupational data statistics provided by the bureau of labor statistics and state agencies responsible for administering unemployment insurance to perform this assessment." [2013 3rd sp.s. c 2 s 1.]

RCW 82.32.860 Liquefied natural gas—Estimated sales tax revenue. (Expires July 1, 2028.) (1) By the last workday of the second and fourth calendar quarters, the state treasurer must transfer

the amount specified in subsection (2) of this section from the general fund to the motor vehicle fund established under RCW 46.68.070. The first transfer under this subsection must occur by December 31, 2017.

(2) By December 15th and by June 15th of each year, the department must estimate the increase in state general fund revenues from the taxes collected under RCW 82.08.0261(2)(a) on the nonexempt portion of liquefied natural gas sales in the current and prior calendar quarters and notify the state treasurer of the increase.

(3) This section expires July 1, 2028. [2014 c 216 s 406.]

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

RCW 82.32.865 Nonresident vessel permit. (Effective until January 1, 2029.) (1) A nonresident vessel owner that is not a natural person, or a nonresident vessel owner who intends to charter the vessel with a captain or crew as provided in RCW 88.02.620(1)(b)(ii), must apply directly to the department for written approval to obtain a nonresident vessel permit under RCW 88.02.620. The application must be made to the department in a form and manner prescribed by the department and must include:

- (a) The name of the record owner of the vessel;
- (b) The name, address, and telephone number of the individual that applied for the permit;
- (c) The record owner's address and telephone number;
- (d) The vessel's hull identification number;
- (e) The vessel year, make, and model;
- (f) The vessel length;
- (g) The vessel's registration or numbering under the state of principal operation or the valid number under federal law;
- (h) Proof of the person's current nonresident status, including, as applicable, certified copies of the filed articles of incorporation, a certificate of formation, or similar filings;
- (i) Proof of the identity and current residency of the natural person owning the charter vessel or all principals of the nonresident person owning the vessel. Such proof may include a valid driver's license verifying out-of-state residency or a valid identification card that has a photograph of the holder and is issued by an out-of-state jurisdiction;
- (j) An affidavit signed by the owner of the nonresident charter vessel, or by a principal of the entity owning the nonresident vessel, certifying that the owner is not a Washington resident or that no Washington residents are principals of the nonresident vessel owner, as the case may be; and
- (k) Any other information the department may require.

(2) The department must determine the nonresident vessel owner's eligibility for the permit, as provided in RCW 88.02.620. The department may require additional proof of eligibility directly from the nonresident vessel owner.

(3)(a) If the department determines that the nonresident vessel owner has established by clear, cogent, and convincing evidence that it is eligible for the permit, the department must provide written approval to the nonresident vessel owner that authorizes issuance of the permit and includes the name of the nonresident vessel owner, the

name of the vessel, and the hull identification number. Otherwise, the department must refuse to authorize the issuance of the permit.

(b) The department must also provide the information in the written approval to the department of licensing.

(4) (a) If, after a permit has been issued under RCW 88.02.620, the department has reason to believe that the nonresident vessel owner was not eligible for the permit approved under subsection (3) of this section, the department may request such information from the nonresident vessel owner as the department determines is necessary to conduct a review of the nonresident vessel owner's eligibility.

(b) If the department finds the nonresident person was not eligible for the permit, the department must assess against the nonresident person state and local use tax on the value of the vessel according to the "value of the article used" as defined in RCW 82.12.010. The department must also assess against the nonresident person any watercraft excise tax due under chapter 82.49 RCW. Penalties and interest as provided in this chapter and chapter 82.49 RCW apply to taxes assessed under this subsection (4).

(5) For purposes of this section, "principal" means a natural person that owns, directly or indirectly, including through any tiered ownership structure, more than a one percent interest in the nonresident person applying for a nonresident vessel permit.

(6) By January 1, 2026, the department must submit a report to the governor and the transportation and fiscal committees of the legislature. The report must include:

(a) The number of nonresident vessel permits the department authorized for approval in each calendar year since September 1, 2015, and the length of such vessels;

(b) The number of nonresident vessel permits the department authorized for approval in each calendar year since July 25, 2021, for vessels chartered with a captain or crew;

(c) Information about the state or country where the vessels described in (a) and (b) of this subsection are primarily operated;

(d) The amount of use tax collected on vessels described in (b) of this subsection;

(e) A discussion of any evidence of fraud or attempted fraud related to nonresident vessel permits or permit applications; and

(f) Any other information the department determines may be relevant.

(7) The department may adopt rules to implement this section. [2021 c 150 s 3; 2015 3rd sp.s. c 6 s 805.]

Expiration date—2021 c 150: See note following RCW 88.02.620.

Expiration date—2021 c 150; 2017 c 323; 2015 3rd sp.s. c 6 ss 802-805: See note following RCW 88.02.620.

Findings—Intent—Tax preference performance statement—2021 c 150; 2017 c 323; 2015 3rd sp.s. c 6 ss 802-805: See note following RCW 88.02.640.

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

RCW 82.32.865 Nonresident vessel permit. (Effective January 1, 2029, until January 1, 2031.) (1) A nonresident vessel owner that is not a natural person must apply directly to the department for written approval to obtain a nonresident vessel permit under RCW 88.02.620. The application must be made to the department in a form and manner prescribed by the department and must include:

- (a) The name of the record owner of the vessel;
- (b) The name, address, and telephone number of the individual that applied for the permit on behalf of the nonresident person;
- (c) The record owner's address and telephone number;
- (d) The vessel's hull identification number;
- (e) The vessel year, make, and model;
- (f) The vessel length;
- (g) The vessel's registration or numbering under the state of principal operation or the valid number under federal law;
- (h) Proof of the person's current nonresident status, including certified copies of the filed articles of incorporation, a certificate of formation, or similar filings;
- (i) Proof of the identity and current residency of all principals of the nonresident person. Such proof may include a valid driver's license verifying out-of-state residency or a valid identification card that has a photograph of the holder and is issued by an out-of-state jurisdiction;
- (j) An affidavit signed by a principal of the nonresident vessel owner certifying that no Washington residents are principals of the nonresident vessel owner; and
- (k) Any other information the department may require.

(2) The department must determine the nonresident vessel owner's eligibility for the permit, as provided in RCW 88.02.620, and may request additional information as needed directly from the nonresident vessel owner.

(3) (a) If the nonresident vessel owner appears eligible for the permit, the department must provide written approval to the nonresident vessel owner that authorizes issuance of the permit and includes the name of the nonresident vessel owner, the name of the vessel, and the hull identification number. After November 30, 2025, the department may not provide written approval for any permits under this subsection.

(b) The department must also provide the information in the written approval to the department of licensing.

(4) (a) If, after a permit has been issued under RCW 88.02.620, the department has reason to believe that the nonresident vessel owner was not eligible for the permit approved under subsection (3) of this section, the department may request such information from the nonresident vessel owner as the department determines is necessary to conduct a review of the nonresident vessel owner's eligibility.

(b) If the department finds the nonresident person was not eligible for the permit, the department must assess against the nonresident person state and local use tax on the value of the vessel according to the "value of the article used" as defined in RCW 82.12.010. The department must also assess against the nonresident person any watercraft excise tax due under chapter 82.49 RCW. Penalties and interest as provided in this chapter and chapter 82.49 RCW apply to taxes assessed under this subsection (4).

(5) For purposes of this section, "principal" means a natural person that owns, directly or indirectly, including through any tiered

ownership structure, more than a one percent interest in the nonresident person applying for a nonresident vessel permit.

(6) The department may adopt rules to implement this section. [2015 3rd sp.s. c 6 s 805.]

Expiration date—2017 c 323; 2015 3rd sp.s. c 6 ss 802-805: See note following RCW 88.02.620.

Findings—Intent—Tax preference performance statement—2017 c 323; 2015 3rd sp.s. c 6 ss 802-805: See note following RCW 88.02.640.

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

RCW 82.32.870 Vapor products tax deposits. (1) By October 15, 2020, and by each October 15th thereafter, the department must estimate any increase in state general fund revenue collections for the immediately preceding fiscal year resulting from the taxes imposed in chapter 445, Laws of 2019. The department must promptly notify the state treasurer of these estimated amounts.

(2) Beginning November 1, 2020, and by each November 1st thereafter, the state treasurer must transfer from the general fund the estimated amount determined by the department under subsection (1) of this section for the immediately preceding fiscal year as follows:

(a) Fifty percent into the Andy Hill cancer research endowment fund match transfer account created in RCW 43.348.080; and

(b) Fifty percent into the foundational public health services account created in RCW 82.25.015.

(3) The department may not make any adjustments to an estimate under subsection (1) of this section after the state treasurer makes the corresponding distribution under subsection (2) of this section based on the department's estimate. [2019 c 445 s 401.]

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

Automatic expiration date and tax preference performance statement exemption—2019 c 445: See note following RCW 82.08.0318.

RCW 82.32.900 Work group created—Transition plan—Taxing liquefied natural gas used for marine vessel transportation. (1) The department of licensing must convene a work group that includes, at a minimum, representatives from the department of transportation, the trucking industry, manufacturers of compressed natural gas and liquefied natural gas, and any other stakeholders as deemed necessary, for the following purposes:

(a) To evaluate the annual license fee in lieu of fuel tax under RCW 82.38.075 to determine a fee that more closely represents the average consumption of vehicles by weight and to make recommendations to the transportation committees of the legislature by December 1, 2014, on an updated fee schedule.

(b) To develop a transition plan to move vehicles powered by liquefied natural gas and compressed natural gas from the annual license fee in lieu of fuel tax to the fuel tax under RCW 82.38.030.

The transition plan must incorporate stakeholder feedback and must include draft legislation and cost and revenue estimates. The transition plan must be submitted to the transportation committees of the legislature by December 1, 2015.

(2) The department of revenue must convene a work group that includes, at a minimum, representatives from the department of transportation, the marine shipping industry, manufacturers of liquefied natural gas, and any other stakeholders as deemed necessary, for the purpose of examining the appropriate level and manner of taxing liquefied natural gas used for marine vessel transportation. The department must make recommendations to the fiscal committees of the legislature by December 1, 2025. [2014 c 216 s 209.]

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