
SENATE BILL 5174

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By Senators Hasegawa, Chase, Conway, Kohl-Welles, Nelson, Kline, Keiser, Shin, and Frockt

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1 AN ACT Relating to taxpayer accountability by requiring a net
2 benefit to the state in order to claim the benefit of a tax
3 expenditure; and amending RCW 82.32.585 and 82.32.534.

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

5 **Sec. 1.** RCW 82.32.585 and 2011 c 23 s 6 are each amended to read
6 as follows:

7 (1)(a) Every person claiming a tax ((~~preference~~)) expenditure that
8 requires a survey under this section must file a complete annual survey
9 with the department.

10 (i) Except as provided in (a)(ii) of this subsection, the survey is
11 due by April 30th of the year following any calendar year in which a
12 person becomes eligible to claim the tax ((~~preference~~)) expenditure
13 that requires a survey under this section.

14 (ii) If the tax ((~~preference~~)) expenditure is a deferral of tax,
15 the first survey must be filed by April 30th of the calendar year
16 following the calendar year in which the investment project is
17 certified by the department as operationally complete, and a survey
18 must be filed by April 30th of each of the seven succeeding calendar
19 years.

1 (b) The department may extend the due date for timely filing of
2 annual surveys under this section as provided in RCW 82.32.590.

3 (2)(a) The survey must include the amount of the tax ((~~preference~~))
4 expenditure claimed for the calendar year covered by the survey. For
5 a person that claimed an ((~~exemption~~)) expenditure provided in RCW
6 82.08.025651 or 82.12.025651, the survey must include the amount of tax
7 exempted under those sections in the prior calendar year for each
8 general area or category of research and development for which exempt
9 machinery and equipment and labor and services were acquired in the
10 prior calendar year.

11 (b) The survey must also include the following information for
12 employment positions in Washington, not to include names of employees,
13 for the year that the tax ((~~preference~~)) expenditure was claimed:

14 (i) The number of total employment positions;

15 (ii) Full-time, part-time, and temporary employment positions as a
16 percent of total employment;

17 (iii) The number of employment positions according to the following
18 wage bands: Less than thirty thousand dollars; thirty thousand dollars
19 or greater, but less than sixty thousand dollars; and sixty thousand
20 dollars or greater. A wage band containing fewer than three
21 individuals may be combined with another wage band; and

22 (iv) The number of employment positions that have employer-provided
23 medical, dental, and retirement benefits, by each of the wage bands.

24 (c) For persons claiming the tax ((~~preference~~)) expenditure
25 provided under chapter 82.60 or 82.63 RCW, the survey must also include
26 the number of new products or research projects by general
27 classification, and the number of trademarks, patents, and copyrights
28 associated with activities at the investment project.

29 (d) For persons claiming the credit provided under RCW 82.04.4452,
30 the survey must also include the qualified research and development
31 expenditures during the calendar year for which the credit was claimed,
32 the taxable amount during the calendar year for which the credit was
33 claimed, the number of new products or research projects by general
34 classification, the number of trademarks, patents, and copyrights
35 associated with the research and development activities for which the
36 credit was claimed, and whether the tax ((~~preference~~)) expenditure has
37 been assigned, and who assigned the credit. The definitions in RCW
38 82.04.4452 apply to this subsection (2)(d).

1 (e) For persons claiming the tax (~~(exemption)~~) expenditure in RCW
2 82.08.025651 or 82.12.025651, the survey must also include the general
3 areas or categories of research and development for which machinery and
4 equipment and labor and services were acquired, exempt from tax under
5 RCW 82.08.025651 or 82.12.025651, in the prior calendar year.

6 (f) If the person filing a survey under this section did not file
7 a survey with the department in the previous calendar year, the survey
8 filed under this section must also include the employment, wage, and
9 benefit information required under (b)(i) through (iv) of this
10 subsection for the calendar year immediately preceding the calendar
11 year for which a tax (~~(preference)~~) expenditure was claimed.

12 (3) As part of the annual survey, the department may request
13 additional information necessary to measure the results of, or
14 determine eligibility for, the tax (~~(preference)~~) expenditure.

15 (4) All information collected under this section, except the
16 information required in subsection (2)(a) of this section, is deemed
17 taxpayer information under RCW 82.32.330. Information required in
18 subsection (2)(a) of this section is not subject to the confidentiality
19 provisions of RCW 82.32.330 and may be disclosed to the public upon
20 request, except as provided in subsection (5) of this section. If the
21 amount of the tax (~~(preference)~~) expenditure claimed as reported on the
22 survey is different than the amount actually claimed or otherwise
23 allowed by the department based on the taxpayer's excise tax returns or
24 other information known to the department, the amount actually claimed
25 or allowed may be disclosed.

26 (5) Persons for whom the actual amount of the tax reduced or saved
27 is less than ten thousand dollars during the period covered by the
28 survey may request the department to treat the amount of the tax
29 reduction or savings as confidential under RCW 82.32.330.

30 (6)(a) Except as otherwise provided by law, if a person claims a
31 tax (~~(preference)~~) expenditure that requires an annual survey under
32 this section but fails to submit a complete annual survey by the due
33 date of the survey or any extension under RCW 82.32.590, the department
34 must declare the amount of the tax (~~(preference)~~) expenditure claimed
35 for the previous calendar year to be immediately due. If the tax
36 (~~(preference)~~) expenditure is a deferral of tax, twelve and one-half
37 percent of the deferred tax is immediately due. If the economic

1 benefits of the deferral are passed to a lessee, the lessee is
2 responsible for payment to the extent the lessee has received the
3 economic benefit.

4 (b)(i) If a person claims a tax expenditure that does not produce
5 a net benefit to the state each year, the department must declare the
6 amount of the tax expenditure claimed for the previous calendar year to
7 be immediately due and payable.

8 (ii) The amount otherwise due and payable under (b)(i) of this
9 subsection may be waived if the failure to produce a net benefit to the
10 state was the result of circumstances beyond the control of the
11 taxpayer.

12 (iii) If the tax expenditure is a deferral of tax, twelve and
13 one-half percent of the deferred tax is immediately due.

14 (iv) If the economic benefits of the deferral are passed to a
15 lessee, the lessee is responsible for payment to the extent the lessee
16 has received the economic benefit.

17 (c) The department must assess interest, but not penalties, on the
18 amounts due under this subsection. The interest must be assessed at
19 the rate provided for delinquent taxes under this chapter,
20 retroactively to the date the tax ((preference)) expenditure was
21 claimed, and accrues until the taxes for which the tax ((preference))
22 expenditure was claimed are repaid. Amounts due under this subsection
23 are not subject to the confidentiality provisions of RCW 82.32.330 and
24 may be disclosed to the public upon request.

25 (7) The department must use the information from this section to
26 determine the net benefit to the state of any individual's tax
27 expenditure for purposes of subsection (6)(b) of this section.

28 (8) The department must use the information from this section to
29 prepare summary descriptive statistics by category. No fewer than
30 three taxpayers may be included in any category. The department must
31 report these statistics to the legislature each year by October 1st.

32 ~~((+8))~~ (9) For the purposes of this section:

33 (a) "Net benefit to the state" means the amount of economic benefit
34 to the state in jobs created or retained, if the stated legislative
35 intent of the tax expenditure was job creation or retention, plus the
36 amount of increased economic activity directly related to the tax
37 expenditure claimed, measured by the amount of taxes paid by the

1 increased economic activity claimed, minus the annual amount of
2 taxpayer savings.

3 (i) For purposes of this subsection (9)(a), the amount of economic
4 benefit to the state in jobs created or retained must be measured by
5 state and local taxes paid by an employee, which must be calculated as
6 a percentage of the annual wage for each employment position as
7 follows:

8 (A) For an annual wage of less than twenty thousand dollars, the
9 percentage is 17.3 percent;

10 (B) For an annual wage of more than twenty thousand dollars and
11 less than thirty-seven thousand dollars, the percentage is 12.7
12 percent;

13 (C) For an annual wage of more than thirty-seven thousand dollars
14 and less than sixty-two thousand dollars, the percentage is 11.2
15 percent;

16 (D) For an annual wage of more than sixty-two thousand dollars and
17 less than ninety-nine thousand dollars, the percentage is 9.5 percent;
18 and

19 (E) For an annual wage of more than ninety-nine thousand dollars,
20 the percentage is 7.6 percent.

21 (ii) For purposes of this subsection (9)(a), the amount of
22 increased economic activity directly related to the tax expenditure
23 claimed must be measured by the increased taxes paid by the taxpayer
24 annually on the activity directly related to the tax expenditure minus
25 the annual amount of taxpayer savings.

26 (b) "Person" has the same meaning as provided in RCW 82.04.030 and
27 also includes the state and its departments and institutions.

28 ~~((b) "Tax preference" has the meaning provided in RCW 43.136.021~~
29 ~~and includes only the tax preferences)) (c) "Tax preference" has the~~
30 ~~same meaning as provided for "tax expenditure" in RCW 43.136.021 and~~
31 ~~includes only the tax expenditures requiring a survey under this~~
32 ~~section.~~

33 **Sec. 2.** RCW 82.32.534 and 2010 c 114 s 103 are each amended to
34 read as follows:

35 (1)(a) Every person claiming a tax ~~((preference))~~ expenditure that
36 requires a report under this section must file a complete annual report
37 with the department. The report is due by April 30th of the year

1 following any calendar year in which a person becomes eligible to claim
2 the tax ((~~preference~~)) expenditure that requires a report under this
3 section. The department may extend the due date for timely filing of
4 annual reports under this section as provided in RCW 82.32.590.

5 (b) The report must include information detailing employment,
6 wages, and employer-provided health and retirement benefits for
7 employment positions in Washington for the year that the tax
8 ((~~preference~~)) expenditure was claimed. However, persons engaged in
9 manufacturing commercial airplanes or components of such airplanes may
10 report employment, wage, and benefit information per job at the
11 manufacturing site for the year that the tax ((~~preference~~)) expenditure
12 was claimed. The report must not include names of employees. The
13 report must also detail employment by the total number of full-time,
14 part-time, and temporary positions for the year that the tax
15 ((~~preference~~)) expenditure was claimed.

16 (c) Persons receiving the benefit of the tax ((~~preference~~))
17 expenditure provided by RCW 82.16.0421 or claiming any of the tax
18 ((~~preferences~~)) expenditures provided by RCW 82.04.2909, 82.04.4481,
19 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual
20 report the quantity of product produced in this state during the time
21 period covered by the report.

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

27 (2) As part of the annual report, the department may request
28 additional information necessary to measure the results of, or
29 determine eligibility for, the tax ((~~preference~~)) expenditure.

30 (3) Other than information requested under subsection (2) of this
31 section, the information contained in an annual report filed under this
32 section is not subject to the confidentiality provisions of RCW
33 82.32.330 and may be disclosed to the public upon request.

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

1 amount of the tax (~~(preference)~~) expenditure claimed for the previous
2 calendar year to be immediately due and payable.

3 (b)(i) If a person claims a tax expenditure that does not produce
4 a net benefit to the state each year, the department must declare the
5 amount of the tax expenditure claimed for the previous calendar year to
6 be immediately due and payable.

7 (ii) The amount otherwise due and payable under (b)(i) of this
8 subsection may be waived if the failure to produce a net benefit to the
9 state was the result of circumstances beyond the control of the
10 taxpayer.

11 (c) The department must assess interest, but not penalties, on the
12 amounts due under this subsection. The interest must be assessed at
13 the rate provided for delinquent taxes under this chapter,
14 retroactively to the date the tax (~~(preference)~~) expenditure was
15 claimed, and accrues until the taxes for which the tax (~~(preference)~~)
16 expenditure was claimed are repaid. Amounts due under this subsection
17 are not subject to the confidentiality provisions of RCW 82.32.330 and
18 may be disclosed to the public upon request.

19 (5) The department must use the information from this section to
20 determine the net benefit to the state of any individual's tax
21 expenditure for purposes of subsection (4)(b) of this section.

22 (6) The department must use the information from this section to
23 prepare summary descriptive statistics by category. No fewer than
24 three taxpayers may be included in any category. The department must
25 report these statistics to the legislature each year by October 1st.

26 ~~((+6))~~ (7) For the purposes of this section:

27 (a) "Net benefit to the state" has the same meaning as provided in
28 RCW 82.32.585.

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

31 ~~((+b))~~ (c) "Tax (~~(preference)~~) expenditure" has the meaning
32 ~~(provided)~~ as "tax preference" in RCW 43.136.021 and includes only
33 the tax (~~(preferences)~~) expenditures requiring a survey under this
34 section.

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