
SENATE BILL 5557

State of Washington

61st Legislature

2009 Regular Session

By Senator Pridemore

Read first time 01/26/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to adopting the recommendations of the citizen
2 commission for performance measurement of tax preferences to clarify
3 the legislative intent of certain deductions and exemptions; amending
4 RCW 82.04.280, 82.04.280, 84.36.030, 84.36.040, and 84.36.840; amending
5 2006 c 300 s 12 (uncodified); adding a new section to chapter 82.04
6 RCW; adding a new section to chapter 84.36 RCW; creating a new section;
7 repealing RCW 84.36.130; providing an effective date; providing a
8 contingent effective date; providing an expiration date; providing a
9 contingent expiration date; and declaring an emergency.

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

11 **Part I.**

12 **Radio and TV Broadcasting**

13 **Sec. 101.** RCW 82.04.280 and 2006 c 300 s 6 are each amended to
14 read as follows:

15 Upon every person engaging within this state in the business of:
16 (1) Printing, and of publishing newspapers, periodicals, or magazines;
17 (2) building, repairing or improving any street, place, road, highway,
18 easement, right-of-way, mass public transportation terminal or parking

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

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

36 As used in this section, "storage warehouse" means a building or
37 structure, or any part thereof, in which goods, wares, or merchandise
38 are received for storage for compensation, except field warehouses,

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

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

12 **Sec. 102.** RCW 82.04.280 and 2006 c 300 s 7 are each amended to
13 read as follows:

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

1 ~~average thereof as annually reported by the Federal Communications~~
2 ~~Commission)), which the department must publish by rule every fifth
3 year by June 30th, or in lieu thereof by itemization by the individual
4 broadcasting station, and excluding that portion of revenue represented
5 by the out-of-state audience computed as a ratio to the station's total
6 audience as measured by the 100 micro-volt signal strength and delivery
7 by wire, if any; (7) engaging in activities which bring a person within
8 the definition of consumer contained in RCW 82.04.190(6); as to such
9 persons, the amount of tax on such business shall be equal to the gross
10 income of the business multiplied by the rate of 0.484 percent.~~

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

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

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

30 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.04
31 RCW to read as follows:

32 For the standard deduction in RCW 82.04.280(6), the department must
33 study radio and television broadcasting, excluding network, national
34 and regional advertising to establish the standard deduction
35 representing the out-of-state audience computed as a ratio. The
36 department must complete the study using the best available
37 information. This study must be completed by August 1, 2009, and the

1 standard deduction must be published by rule by December 1, 2009. The
2 study must be repeated every fifth year thereafter by March 30th and
3 the rule must be published every fifth year by September 30th.

4 **Part II.**

5 **Nonprofit Property Tax Exemptions**

6 **Sec. 201.** RCW 84.36.030 and 2006 c 305 s 1 are each amended to
7 read as follows:

8 The following real and personal property (~~shall be~~) are exempt
9 from taxation:

10 (1)(a) Property owned by nonprofit organizations or associations,
11 organized and conducted for nonsectarian purposes, which (~~shall be~~)
12 is used for character-building, benevolent, protective or
13 rehabilitative social services directed at persons of all ages,
14 including the housing and care for children.

15 (b) The sale of donated merchandise (~~shall~~) may not be considered
16 a commercial use of the property under this section if the proceeds are
17 devoted to the furtherance of the purposes of the selling organization
18 or association as specified in this subsection (1).

19 (c) In a county with a population of less than twenty thousand, the
20 rental or use of property, owned by a nonprofit organization or
21 association described in (a) of this subsection, by a person, group, or
22 organization in one of the following ways (~~shall~~) may not nullify the
23 exemption:

24 (i) The property may be rented or used for pecuniary gain or for
25 business activities or by individuals, groups, and organizations for
26 private purposes if the rental or use:

27 (A) Does not exceed fifteen days each assessment year;

28 (B) No comparable private for-profit facility exists within ten
29 miles of the property that could be used for the same purpose for which
30 the property is loaned or rented; and

31 (C) All income from the rental or use of the exempt property is
32 used for capital improvements to the exempt property, maintenance and
33 operation of the exempt property, or for exempt purposes; or

34 (ii) The property is rented or used by a nonprofit community group
35 or other nonprofit organization that might not qualify for exemption if
36 it owned the property as long as the rental or use of the property:

1 (A) Does not exceed fifteen days each assessment year;

2 (B) Does not result in pecuniary gain;

3 (C) Does not involve business activities;

4 (D) Is always for the general public good; and

5 (E) All income from the rental or use of the exempt property is
6 used for capital improvements to the exempt property, maintenance and
7 operation of the exempt property, or for exempt purposes.

8 (2) Property owned by any nonprofit church, denomination, group of
9 churches, or an organization or association, the membership of which is
10 comprised solely of churches or their qualified representatives, which
11 is utilized as a camp facility if used for organized and supervised
12 recreational activities and church purposes as related to such camp
13 facilities. The exemption provided by this (~~paragraph shall apply~~)
14 subsection applies to a maximum of two hundred acres of any such camp
15 as selected by the church, including buildings and other improvements
16 thereon.

17 (3) Property, including buildings and improvements required for the
18 maintenance and safeguarding of such property, owned by nonprofit
19 organizations or associations engaged in character building of boys and
20 girls under eighteen years of age, and used for such purposes and uses,
21 provided such purposes and uses are for the general public good(~~+~~
22 ~~PROVIDED, That~~)). However, if existing charters provide that
23 organizations or associations, which would otherwise qualify under the
24 provisions of this (~~paragraph~~) subsection, serve boys and girls up to
25 the age of twenty-one years, then such organizations or associations
26 (~~shall be~~) are deemed qualified pursuant to this section.

27 (4)(a) Property owned by all organizations and societies of
28 veterans of any war of the United States, recognized as such by the
29 department of defense, which (~~shall~~) have national charters, and
30 which (~~shall~~) have for their general purposes and objects the
31 preservation of the memories and associations incident to their war
32 service and the consecration of the efforts of their members to mutual
33 helpfulness and to patriotic and community service to state and nation.
34 To be exempt such property must be used in such manner as may be
35 reasonably necessary to carry out the purposes and objects of such
36 societies.

37 (b) The use of the property for pecuniary gain or for business

1 activities, except as provided in this subsection (4), nullifies the
2 exemption otherwise available for the property for the assessment year.
3 The exemption is not nullified by:

4 (i) The collection of rent or donations if the amount is reasonable
5 and does not exceed maintenance and operation expenses.

6 (ii) Fund-raising activities conducted by a nonprofit organization.

7 (iii) The use of the property for pecuniary gain for periods of not
8 more than fifteen days in a year.

9 (c) An inadvertent use of the property in a manner inconsistent
10 with the purpose for which exemption is granted, if the inadvertent use
11 is not part of a pattern of use. A pattern of use is presumed when an
12 inadvertent use is repeated in the same assessment year or in two or
13 more successive assessment years.

14 (5) Property owned by all corporations, incorporated under any act
15 of congress, whose principal purposes are to furnish volunteer aid to
16 members of the armed forces of the United States and also to carry on
17 a system of national and international relief and to apply the same in
18 mitigating the sufferings caused by pestilence, famine, fire, floods,
19 and other national calamities and to devise and carry on measures for
20 preventing the same.

21 (6) Property owned by nonprofit organizations exempt from federal
22 income tax under section 501(c)(3) of the internal revenue code of
23 ((1954)) 1986, as amended, that are guarantee agencies under the
24 federal guaranteed student loan program or that issue debt to provide
25 or acquire student loans.

26 (7) To be exempt under this section, the property must be used
27 exclusively for the purposes for which exemption is granted, except as
28 provided in RCW 84.36.805.

29 (8) For the purposes of this section, "general public good" means
30 members of the community derive a benefit from the rental or use of the
31 property by the nonprofit community group or organization.

32 **Sec. 202.** RCW 84.36.040 and 2001 c 126 s 1 are each amended to
33 read as follows:

34 (1) The real and personal property used by nonprofit (a) day care
35 centers as defined pursuant to RCW 74.15.020; (b) free public
36 libraries; (c) (~~orphanages and orphan asylums; (d)~~) homes for the
37 sick or infirm; (~~(e)~~) (d) hospitals for the sick; and (~~(f)~~) (e)

1 outpatient dialysis facilities, which are used for the purposes of such
2 organizations (~~shall be~~) are exempt from taxation(~~PROVIDED,~~
3 ~~That~~). However, the benefit of the exemption inures to the user.

4 (2) The real and personal property leased to and used by a
5 hospital, owned and operated by a public hospital district established
6 under chapter 70.44 RCW, for hospital purposes is exempt from taxation.
7 The benefit of the exemption must inure to the user.

8 (3) To be exempt under this section, the property must be used
9 exclusively for the purposes for which exemption is granted, except as
10 provided in RCW 84.36.805.

11 **Sec. 203.** RCW 84.36.840 and 2007 c 111 s 305 are each amended to
12 read as follows:

13 (1) In order to determine whether organizations, associations,
14 corporations, or institutions, except those exempted under RCW
15 84.36.020 and 84.36.030, are exempt from property taxes, and before the
16 exemption (~~shall be~~) is allowed for any year, the superintendent or
17 manager or other proper officer of the organization, association,
18 corporation, or institution claiming exemption from taxation (~~shall~~)
19 must file with the department of revenue a statement certifying that
20 the income and the receipts thereof, including donations to it, have
21 been applied to the actual expenses of operating and maintaining it, or
22 for its capital expenditures, and to no other purpose. This report
23 (~~shall~~) must also include a statement of the receipts and
24 disbursements of the exempt organization, association, corporation, or
25 institution.

26 (2) Educational institutions claiming exemption under RCW 84.36.050
27 (~~shall~~) must also file a list of all property claimed to be exempt,
28 the purpose for which it is used, the revenue derived from it for the
29 preceding year, the use to which the revenue was applied, the number of
30 students who attended the school or college, the total revenues of the
31 institution with the source from which they were derived, and the
32 purposes to which the revenues were applied, listing the items of such
33 revenues and expenditures in detail.

34 (3) Nonprofit homes for the sick or infirm and nonprofit hospitals
35 for the sick claiming exemptions under RCW 84.36.040(1) (c) and (d)
36 must also file on an annual basis: (a) The assessed value of the
37 exempt property and amount of property tax exempted; and (b) data with

1 the department of revenue identifying the charity care provided. If
2 required to file a cost report to the department of social and health
3 services, pursuant to RCW 74.46.040, a nonprofit home for the sick or
4 infirm must file a copy of the report with the department of revenue.
5 If required to report to the department of health, pursuant to RCW
6 43.70.052, a nonprofit hospital for the sick must file the same charity
7 care data required by RCW 43.70.052(1) with the department of revenue.

8 (4) The reports required under subsections (1) (~~and~~), (2), and
9 (3) of this section may be submitted electronically, in a format
10 provided or approved by the department, or mailed to the department.
11 The reports (~~shall~~) must be submitted on or before March 31st of each
12 year. The department (~~shall~~) must remove the tax exemption from the
13 property of any organization, association, corporation, or institution
14 that does not file the required report with the department on or before
15 the due date. However, the department (~~shall~~) must allow a
16 reasonable extension of time for filing upon receipt of a written
17 request on or before the required filing date and for good cause shown
18 therein.

19 NEW SECTION. Sec. 204. A new section is added to chapter 84.36
20 RCW to read as follows:

21 (1)(a) During calendar year 2014, the joint legislative audit and
22 review committee must study the charity care provided from 2003 to 2013
23 by nonprofit homes for the sick or infirm and nonprofit hospitals for
24 the sick claiming exemptions under RCW 84.36.040(1) (c) and (d).

25 (b) The department of revenue and the department of health must
26 provide the committee with any data within its purview that the
27 committee considers necessary to conduct the review. By December 1,
28 2014, the joint legislative audit and review committee must report to
29 the legislature the results of its review.

30 (2) As part of its review under subsection (1) of this section, the
31 committee must study and report to the legislature on:

32 (a) Charity care provided by nonprofit homes for the sick or infirm
33 compared with the amount provided by for-profit homes for the sick;

34 (b) Charity care provided by nonprofit hospitals for the sick
35 compared with the amount provided by for-profit hospitals for the sick;

36 (c) The annual property tax savings of nonprofits claiming
37 exemptions under RCW 84.36.040(1) (c) and (d);

1 (d) The annual estimated property tax shift from nonprofits
2 claiming exemptions under RCW 84.36.040(1) (c) and (d) by county;

3 (e) Options for the measurement of noncompensated care and debt to
4 include as charity care for future reports and studies;

5 (f) Any other recommendations the committee may have to improve the
6 provision of charity care by homes for the sick or infirm and hospitals
7 by modifying property tax preferences; and

8 (g) Any other factors that the committee considers necessary to
9 properly evaluate the exemption.

10 (3) This section expires January 1, 2015.

11 **Part III.**

12 **Tax Exemption Repeals**

13 NEW SECTION. **Sec. 301.** RCW 84.36.130 (Airport property in this
14 state for smaller airports belonging to municipalities of adjoining
15 states) and 1998 c 201 s 1 & 1961 c 15 s 84.36.130 are each repealed.

16 **Part IV.**

17 **Miscellaneous Provisions**

18 NEW SECTION. **Sec. 401.** Part headings used in this act are not any
19 part of the law.

20 **Sec. 402.** 2006 c 300 s 12 (uncodified) is amended to read as
21 follows:

22 (1)(a) (~~This act and~~) Section 102, chapter . . ., Laws of 2009
23 (section 102 of this act), section 7, chapter 300, Laws of 2006, and
24 section 4, chapter 149, Laws of 2003 are contingent upon the siting and
25 commercial operation of a significant semiconductor microchip
26 fabrication facility in the state of Washington.

27 (b) For the purposes of this section:

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

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

32 (iii) "Significant" means the combined investment of new buildings

1 and new machinery and equipment in the buildings, at the commencement
2 of commercial production, will be at least one billion dollars.

3 (2) (~~(This act)~~) Chapter 149, Laws of 2003 takes effect the first
4 day of the month in which a contract for the construction of a
5 significant semiconductor fabrication facility is signed, as determined
6 by the director of the department of revenue.

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

10 (b) If, after making a determination that a contract has been
11 signed and (~~(this act)~~) chapter 149, Laws of 2003 is effective, the
12 department discovers that commencement of commercial production did not
13 take place within three years of the date the contract was signed, the
14 department (~~(shall)~~) must make a determination that (~~(this act)~~)
15 chapter 149, Laws of 2003 is no longer effective, and all taxes that
16 would have been otherwise due (~~(shall be)~~) are deemed deferred taxes
17 and are immediately assessed and payable from any person reporting tax
18 under RCW 82.04.240(2) or claiming an exemption or credit under section
19 2 or 5 through 10 (~~(of this act)~~), chapter 149, Laws of 2003. The
20 department is not authorized to make a second determination regarding
21 the effective date of (~~(this act)~~) chapter 149, Laws of 2003.

22 NEW SECTION. Sec. 403. (1) Section 103 of this act is necessary
23 for the immediate preservation of the public peace, health, or safety,
24 or support of the state government and its existing public
25 institutions, and takes effect July 1, 2009.

26 (2) Section 102 of this act takes effect if the contingency in
27 section 502 of this act occurs.

28 NEW SECTION. Sec. 404. Section 101 of this act expires on the
29 date that section 102 of this act takes effect.

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