

the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 25, 1959.

Passed the Senate March 9, 1959.

Approved by the Governor March 19, 1959.

CHAPTER 197.

[S. B. 88.]

EXCISE TAXES—REPORTING, RETURNS, EXEMPTIONS.

AN ACT relating to revenue and taxation; amending section 13, chapter 180, Laws of 1935 and RCW 82.04.490; amending section 23, chapter 180, Laws of 1935 as last amended by section 3, chapter 44, Laws of 1951, and RCW 82.08.070; amending section 25, chapter 180, Laws of 1935 as last amended by section 9, chapter 178, Laws of 1941, and RCW 82.08.090 and 82.08.100; amending section 34, chapter 180, Laws of 1935 as last amended by section 17, chapter 225, Laws of 1939, and RCW 82.12.050; amending section 11, chapter 178, Laws of 1941 and RCW 82.12.060 and 82.12.070; amending section 42, chapter 180, Laws of 1935 and RCW 82.16.070; amending section 34, chapter 389, Laws of 1955 and RCW 82.28.040; amending section 192, chapter 180, Laws of 1935 as last amended by section 1, chapter 110, Laws of 1955, and RCW 82.32.090; amending section 11, chapter 180, Laws of 1935, as last amended by section 2, chapter 249, Laws of 1945, and RCW 82.04.300 through 82.04.420; amending section 39, chapter 180, Laws of 1935 and RCW 82.16.040; amending section 15, chapter 180, Laws of 1935 and RCW 82.04.510; and declaring an emergency with the effective date April 1, 1959.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 13, chapter 180, Laws of 1935 and RCW 82.04.490 are each amended to read as follows:

RCW 82.04.490
amended.

The taxes imposed hereunder shall be due and payable in monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the

B and O tax—
Tax payable
monthly—
Other returns
authorized.

monthly period in which tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding monthly period, sign and transmit the same to the commission, together with a remittance for such amount in the form required: *Provided*, That any such taxpayer may elect to remit each month on such forms as the tax commission shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the commission on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the period of the report: *Provided further*, That every person who shall elect to remit a monthly “estimate of the tax to be due” as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, ninety percent of the tax actually collected or owing during the month, whichever is greater.

The tax commission may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The tax commission may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The tax commission may also require verified annual returns from any taxpayer, setting forth such

additional information as it may deem necessary to correctly determine tax liability.

SEC. 2. Section 23, chapter 180, Laws of 1935 as last amended by section 3, chapter 44, Laws of 1951, and RCW 82.08.070 are each amended to read as follows:

RCW 82.08.070
amended.

Each seller, on or before the fifteenth day of the month succeeding the end of each monthly period, shall make out a return for the preceding monthly period, upon forms to be provided by the commission, setting forth the amount of all sales, nontaxable sales, taxable sales, the amount of tax thereon, and such other information as the commission may require, sign, and transmit the same to the commission: *Provided*, That any such taxpayer may elect to remit each month on such forms as the tax commission shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the commission on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the period of the report: *Provided further*, That every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, ninety percent of the tax actually collected or owing during the month, whichever is greater.

Retail sales
tax—
Tax payable
monthly—
Other returns
authorized.

The tax commission may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The tax commission may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The tax commission may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

The commission shall, by rule or regulation, establish procedures and forms for reporting consonant with efficient tax administration and accounting procedure to carry into effect the provisions of this act.

The commission may also require annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability. The tax accrued under the provisions of this chapter, whether or not collected from the buyer shall be paid by the seller to the commission in installments at the time of transmitting the return above provided for.

SEC. 3. Section 25, chapter 180, Laws of 1935 as last amended by section 9, chapter 178, Laws of 1941 (heretofore divided and codified as RCW 82.08.090 and 82.08.100) is divided and amended as set forth in sections 4 and 5 of this act.

SEC. 4. (RCW 82.08.090) In the case of installment sales and leases with an option to purchase, the commission, by regulation, may provide for the collection of taxes upon the installments of the purchase price, or amount of rental, as of the time the same fall due.

In case the consideration for the lease with an option to purchase is not a bona fide consideration or does not represent a reasonable charge therefor, or if the agreement designated as a lease with an option to purchase is in fact not a true lease with

RCW 82.08.090
enacted
without
amendment.

an option to purchase, the commission shall issue equitable rules and regulations for the proper classification of such transaction.

Note: See also section 8, chapter 3, Laws Ex. Sess. 1959.

SEC. 5. (RCW 82.08.100) The tax commission, by general regulation, may provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his cash receipts for each reporting period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period.

RCW 82.08.100
amended.
Tax paid on
cash receipts
basis.

Note: See also section 9, chapter 3, Laws Ex. Sess. 1959.

SEC. 6. Section 34, chapter 180, Laws of 1935 as last amended by section 17, chapter 225, Laws of 1939 and RCW 82.12.050 are each amended to read as follows:

RCW 82.12.050
amended.

Each taxpayer subject to the provisions of this chapter shall, on or before the fifteenth day of the month succeeding the end of the monthly period in which the tax accrued, file a return with the commission showing in detail the total quantity of tangible personal property used by him within the state during the preceding monthly period subject to the tax herein imposed, and such other information as the commission may deem pertinent. Each taxpayer shall remit to the commission with his return the amount of tax shown thereon to be due: *Provided*, That any such taxpayer may elect to remit each month on such forms as the tax commission shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the commission on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the

Use tax—
Tax payable
monthly—
Other returns
authorized.

period of the report: *Provided further*, That every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, ninety percent of the tax actually collected or owing during the month, whichever is greater.

The tax commission may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The tax commission may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The tax commission may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

The tax commission shall, by rule or regulation, establish procedures and forms for reporting consonant with efficient tax administration and accounting procedure to carry into effect the provisions of this act.

SEC. 7. Section 11, chapter 178, Laws of 1941 (heretofore divided and codified as RCW 82.12.060 and 82.12.070) is divided and amended as set forth in sections 8 and 9 of this act.

SEC. 8. (RCW 82.12.060) In the case of installment sales and leases with an option to purchase, the commission, by regulation, may provide for the collection of taxes upon the installments of the purchase price, or amount of rental, as of the time the same fall due.

In case the consideration for the lease with an

RCW 82.12.060
enacted with-
out amend-
ment.

option to purchase is not a bona fide consideration or does not represent a reasonable charge therefor, or if the agreement designated as a lease with an option to purchase is in fact not a true lease with an option to purchase, the tax commission shall issue equitable rules and regulations for the proper classification of such transaction.

Note: See also section 13, chapter 3, Laws Ex. Sess. 1959.

SEC. 9. (RCW 82.12.070) The tax commission, by general regulation, may provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his cash receipts for each reporting period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period.

RCW 82.12.070
amended.
Tax paid
on cash
receipts basis.

Note: See also section 14, chapter 3, Laws Ex. Sess. 1959.

SEC. 10. Section 42, chapter 180, Laws of 1935 and RCW 82.16.070 are each amended to read as follows:

RCW 82.16.070
amended.

The taxes imposed hereunder shall be due and payable in monthly installments and remittance therefor shall be made on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued. The taxpayer on or before the fifteenth day of such month shall make out a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding monthly period, sign, and transmit the same to the commission, together with a remittance for such amount in the form required in chapter 82.32 RCW: *Provided*, That any such taxpayer may elect to remit each month on such forms as the tax commission shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in

Public utility
tax—Tax pay-
able monthly
—Other
returns
authorized.

which the tax accrued, and a quarterly return to the commission on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the period of the report: *Provided further*, That every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, ninety percent of the tax actually collected or owing during the month, whichever is greater.

The tax commission may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The tax commission may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such taxpayers or class of taxpayers in lieu of quarterly returns.

The tax commission may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

The commission shall, by rule or regulation, establish procedures and forms for reporting consonant with efficient tax administration and accounting procedure to carry into effect the provisions of this act.

SEC. 11. Section 34, chapter 389, Laws of 1955 and RCW 82.28.040 are each amended to read as follows:

The taxes imposed hereunder shall be computed for each mechanical device on a calendar month basis and shall be due and payable in monthly in-

RCW 82.28.040
amended.

Mechanical
devices tax—
Tax payable
monthly—
Other returns
authorized.

stallments and remittance therefor shall be made on or before the fifteenth day of each month of each calendar year next succeeding the end of the monthly period in which the tax accrued. The taxpayer, on or before said fifteenth day of such month, shall make out and sign a return, upon such forms and setting forth such information as the tax commission may require, showing the amount of the tax for which he is liable for the preceding monthly period and transmit it to the commission, together with a remittance for such amount in the form required: *Provided*, That any such taxpayer may elect to remit each month on such forms as the tax commission shall in its discretion prescribe, an estimate of the tax to be due for each month on or before the fifteenth day of the month next succeeding the end of the monthly period in which the tax accrued, and a quarterly return to the commission on or before the fifteenth day of the month next succeeding the end of each quarter of every year and shall remit therewith the balance of the actual tax due for the period of the report: *Provided further*, That every person who shall elect to remit a monthly "estimate of the tax to be due" as hereinabove described shall remit each month at least one-third of the tax paid during the previous quarter or, ninety percent of the tax actually collected or owing during the month, whichever is greater.

The tax commission may also relieve any taxpayer or class of taxpayers from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than one year.

The tax commission may also, by general rule or regulation, establish conditions for submission of annual or semiannual reconciling returns by such

taxpayers or class of taxpayers in lieu of quarterly returns.

The tax commission may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

Penalty when machines not reported.

A return shall be filed for each mechanical device registered with the commission, whether or not the machine was in actual operation during the monthly period for which the return is made, and whether or not any tax liability was incurred with respect to the operation of the machine during such monthly period, and for failure to file a return for any such machine the commission may assess a penalty in the amount of not to exceed twenty-five dollars for each machine not reported, which penalty shall be collected in the same manner as the taxes imposed by this chapter. A taxpayer may report any number of machines on a single return if appropriate information is attached to such single return stating the registration number of each machine reported, the location at which it was operated, and the gross operating income therefrom.

RCW 82.32.090 amended.

SEC. 12. Section 192, chapter 180, Laws of 1935 as last amended by section 1, chapter 110, Laws of 1955, and RCW 82.32.090 are each amended to read as follows:

Administrative provisions—
Late payments
—Penalties.

If payment of any tax due is not received by the tax commission by the twenty-fifth day of the month in which the tax becomes due, there may be added to the tax a penalty of ten percent of the amount of the tax; and if the tax is not received within forty days of the due date, there may be added an additional penalty of five percent of the amount of the tax; and if the tax is not received within seventy days of the due date, there may be added an additional penalty of five percent of the amount of the

tax; but none of the penalties so added shall be less than one dollar.

If a warrant be issued by the tax commission for the collection of taxes, increases, and penalties, there may be added thereto a penalty of five percent of the amount of the tax, but not less than one dollar.

Notwithstanding the foregoing, the aggregate of penalties imposed under this chapter for failure to file a return, late payment of any tax, increase, or penalty, or issuance of a warrant shall not exceed twenty-five percent of the tax due, but shall in no case be less than the minimum penalties prescribed herein.

SEC. 13. Section 11, chapter 180, Laws of 1935, as last amended by section 2, chapter 249, Laws of 1945 (heretofore divided and codified as RCW 82.04-.300 through 82.04.420) is divided and amended as set forth in sections 14 through 26 of this act.

SEC. 14. (RCW 82.04.300) This chapter shall apply to any person engaging in any business activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.260, 82.04.270 and 82.04.280 other than those whose value of products, gross proceeds of sales, or gross income of the business is less than three hundred dollars per month: *Provided*, That where one person engages in more than one business activity and the combined measures of the tax applicable to such businesses equal or exceed three hundred dollars per month, no exemption or deduction from the amount of tax is allowed by this section.

RCW 82.04.300 amended.
B and O tax—Exemptions.
Application of chapter—Exemption based on bimonthly gross.

This chapter shall apply to any person engaging in any business activity taxable under RCW 82.04-.290 other than those whose value of products, gross proceeds of sales, or gross income of the business is less than eighteen hundred dollars per year: *Provided*, That where one person engages in more than one business activity and the combined measures of

tax applicable to such business equals or exceeds eighteen hundred dollars, no exemption or deduction from the amount of tax is allowed by this section.

Any person claiming exemption under the provisions of this section may be required to file returns even though no tax may be due: *Provided, further,* That the tax commission may allow exemptions, by general rule or regulation, in those instances in which quarterly, semiannual, or annual returns are permitted. Exemptions for such periods shall be equivalent in amount to the total of exemptions for each month of a reporting period.

Note: See also section 7, chapter 5, Laws Ex. Sess. 1959.

RCW 82.04.310
enacted
without
amendment.

SEC. 15. (RCW 82.04.310) This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of chapter 82.16.

RCW 82.04.320
enacted
without
amendment.

SEC. 16. (RCW 82.04.320) This chapter shall not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state: *Provided,* That the provisions of this section shall not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies: *Provided further,* That the provisions of this section shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

RCW 82.04.330
enacted
without
amendment.

SEC. 17. (RCW 82.04.330) This chapter shall not apply to any person in respect to the business of growing or producing for sale upon his own lands or upon land in which he has a present right of possession, any agricultural or horticultural produce or crop, including the raising for sale of any animal, bird, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom, or in

respect to the sale of such products at wholesale by such grower, producer, or raiser thereof. This exemption shall not apply to any person selling such products at retail; nor to the sale of any animal or substance obtained therefrom by a person in connection with his business of operating a stockyard or a slaughter or packing house; nor to any association of persons, whatever, whether mutual, cooperative or otherwise, engaging in any business activity with respect to which tax liability is imposed under the provisions of this chapter.

SEC. 18. (RCW 82.04.340) This chapter shall not apply to any person in respect to the business of conducting boxing contests and sparring or wrestling matches and exhibitions for the conduct of which a license must be secured from the state athletic commission.

RCW 82.04.340
enacted
without
amendment.

SEC. 19. (RCW 82.04.350) This chapter shall not apply to any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the horse racing commission.

RCW 82.04.350
enacted
without
amendment.

SEC. 20. (RCW 82.04.360) This chapter shall not apply to any person in respect to his employment in the capacity of an employee or servant as distinguished from that of an independent contractor.

RCW 82.04.360
enacted
without
amendment.

SEC. 21. (RCW 82.04.370) This chapter shall not apply to fraternal benefit societies or fraternal fire insurance associations, as described in Title 48; nor to beneficiary corporations or societies organized under and existing by virtue of Title 24, if such beneficiary corporations or societies provide in their bylaws for the payment of death benefits.

RCW 82.04.370
enacted
without
amendment.

SEC. 22. (RCW 82.04.380) This chapter shall not apply to the gross sales or the gross income received by corporations which have been incorporated under any act of the Congress of the United States of

RCW 82.04.380
enacted
without
amendment.

America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

RCW 82.04.390
enacted
without
amendment.

SEC. 23. (RCW 82.04.390) This chapter shall not apply to amounts derived from the lease, rental, or sale of real estate. This however, shall not be construed to allow a deduction of amounts derived from engaging in any business wherein a mere license to use or enjoy real property is granted, or to allow a deduction of amounts received as commissions from the sale or rental of real estate.

Note: See also section 8, chapter 5, Laws Ex. Sess. 1959.

RCW 82.04.400
enacted
without
amendment.

SEC. 24. (RCW 82.04.400) This chapter shall not apply to national banks, state banks, trust companies, mutual savings banks, building and loan and savings and loan associations with respect to their banking, trust, or savings and loan business but shall apply with respect to their engaging in any other business taxable hereunder, even though such other business is conducted primarily for the purpose of liquidating the assets thereof.

RCW 82.04.410
enacted
without
amendment.

SEC. 25. (RCW 82.04.410) This chapter shall not apply to amounts derived by persons engaged in operating chick hatcheries from the production and sale of chicks and hatching eggs.

RCW 82.04.420
enacted
without
amendment.

SEC. 26. (RCW 82.04.420) This chapter shall not apply to any person performing any activities with respect to which a tax is specifically imposed upon the gross operating income derived therefrom under the provisions of chapter 82.28 of this title.

RCW 82.16.040
amended.

SEC. 27. Section 39, chapter 180, Laws of 1935 and RCW 82.16.040 are each amended to read as follows:

The provisions of this chapter shall not apply to persons engaging in one or more businesses taxable under this chapter whose total gross operating revenue is less than five hundred dollars for a monthly period or portion thereof. Any person claiming exemption under this section may be required to file returns even though no tax may be due. If the total gross operating revenue for a taxable monthly period is five hundred dollars, or more, no exemption or deductions from the gross operating revenue is allowed by this provision.

Public utility
tax—
Exemption.

Note: See also section 17, chapter 3, Laws Ex. Sess. 1959.

SEC. 28. Section 15, chapter 180, Laws of 1935 and RCW 82.04.510 are each amended to read as follows:

RCW 82.04.510
amended.

All of the provisions contained in chapter 82.32 shall have full force and application with respect to taxes imposed under the provisions of this chapter. Taxpayers submitting monthly estimates of taxes due under this chapter shall be subject to the provisions of chapter 82.32 if they fail to remit ninety percent of the taxes actually collected or due for the reporting period.

General ad-
ministrative
provisions
invoked.

SEC. 29. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect April 1, 1959.

Emergency.

SEC. 30. 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.

Severability.

Passed the Senate March 7, 1959.

Passed the House March 4, 1959.

Approved by the Governor March 19, 1959.