

CHAPTER 190

[Engrossed Substitute Senate Bill No. 3678]

BUSINESS AND OCCUPATION TAX—CREDIT FOR TAXES PAID TO ANOTHER STATE FOR SALES OF PRODUCTS EXTRACTED OR MANUFACTURED IN-STATE

AN ACT Relating to revenue and taxation; amending RCW 82.04.440, 82.49.010, and 82.49.030; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.49 RCW; creating a new section; repealing RCW 82.49.040, 82.49.050, and 82.49.060; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 82.04.440, chapter 15, Laws of 1961 as last amended by section 5, chapter 172, Laws of 1981 and RCW 82.04.440 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, every person engaged in activities which are within the purview of the provisions of two or more of sections RCW 82.04.230 to 82.04.290, inclusive, shall be taxable under each paragraph applicable to the activities engaged in (: ~~PROVIDED, That~~)).

(2) Persons taxable under RCW 82.04.250 or 82.04.270 shall not be taxable under RCW 82.04.230, 82.04.240, or subsection (2), (3), (4), (5), or (7) of RCW 82.04.260 with respect to extracting or manufacturing of the products so sold (, ~~and that~~)).

(3) Persons taxable under RCW 82.04.240 or ((RCW)) 82.04.260 subsection (4) shall not be taxable under RCW 82.04.230 with respect to extracting the ingredients of the products so manufactured.

(4)(a) If it is determined by a court of competent jurisdiction, in a judgment not subject to review, that subsection (2) of this section results in an unconstitutional discrimination against interstate or foreign commerce, and that relief is appropriate for any tax reporting periods either before or after the effective date of this 1985 act, it is the intent of the legislature that the credit provided in (b) of this subsection shall be applied to such reporting periods and that relief for such periods be limited to the granting of such credit. It is further the intent of the legislature that such credit shall be applicable only under the conditions and to the extent provided in this subsection (4).

(b) As provided in (a) of this subsection, a person taxable under RCW 82.04.230, 82.04.240, or subsection (2), (3), (4), (5), or (7) of RCW 82.04.260 with respect to extracting or manufacturing products in this state shall be allowed a credit against those taxes for any gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(c) For the purpose of this subsection, "gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(d) For the purpose of this subsection, "state" means state of the United States, any political subdivision thereof, or the District of Columbia, and any foreign country or political subdivision thereof.

****NEW SECTION. Sec. 2. A new section is added to chapter 82.12 RCW to read as follows:***

The provisions of this chapter shall not apply with respect to the use of manufacturing equipment which was owned and used at least one year in manufacturing in another state and which is brought into this state and placed in a factory and used in production in this state.

**Sec. 2 was vetoed, see message at end of chapter.*

****Sec. 3. Section 9, chapter 7, Laws of 1983 as amended by section 42, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.49.010 are each amended to read as follows:***

(1) An excise tax is imposed for the privilege of using a vessel upon the waters of this state, except vessels exempt under RCW 82.49.020. The annual amount of the excise tax ((is one-half of one percent of fair market value, as determined under this chapter, or five dollars, whichever is greater.)) shall be as follows:

(a) For vessels sixteen feet or more in length but less than twenty feet, ninety-five cents per foot, or fraction thereof;

(b) For vessels twenty feet or more in length but less than twenty-six feet, one dollar and eighty cents per foot, or fraction thereof;

(c) For vessels twenty-six feet or more in length but less than thirty-two feet, two dollars and sixty-five cents per foot, or fraction thereof;

(d) For vessels thirty-two feet or more in length but less than thirty-eight feet, three dollars and fifteen cents per foot, or fraction thereof; and

(e) For vessels thirty-eight feet or more in length, three dollars and seventy cents per foot, or fraction thereof.

Length is determined by means of a straight line measurement of the overall length from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, and similar fittings or attachments are not included in the measurement.

(2) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes

vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year. ~~((The excise tax on vessels required to be registered in this state on June 30, 1983, shall be paid by June 30, 1983.))~~

*Sec. 3 was vetoed, see message at end of chapter.

*Sec. 4. Section 10, chapter 7, Laws of 1983 and RCW 82.49.030 are each amended to read as follows:

The excise taxes imposed under ~~((this chapter is))~~ RCW 82.49.010 and 82.49.070 are due and payable to the department of licensing or its agents at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until ~~((the tax is))~~ these taxes are paid in full.

The excise taxes collected under ~~((this chapter))~~ RCW 82.49.010 shall be deposited in the general fund. The excise taxes collected under RCW 82.49.070 shall be deposited in the vessel local excise tax account hereby created in the general fund. Moneys in the vessel local excise tax account may be spent only for distribution to counties imposing the local tax. Distribution to the counties shall occur on a monthly basis, not later than the fifteenth day of the succeeding month after collection.

*Sec. 4 was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 5. A new section is added to chapter 82.49 RCW to read as follows:

(1) Any vessel which is not less than forty years old and whose hull is substantially unmodified shall be considered to be a classic vessel for the purposes of this chapter.

(2) Owners of classic vessels as described in subsection (1) of this section may, as an alternative to paying the vessel excise tax imposed in RCW 82.49.010, have the vessel appraised by the county assessor of the county in which the vessel is moored or stored. The appraised value of the vessel shall be reported to the department on a form prescribed by the department and the excise tax due and payable each year shall be paid at the rate of one-half of one percent of the appraised value of the vessel as certified by the county assessor.

(3) The fee for such appraisal shall be twenty-five dollars, payable to the county treasurer for deposit in the county current expense fund.

*Sec. 5 was vetoed, see message at end of chapter.

*NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) Section 11, chapter 7, Laws of 1983 and RCW 82.49.040;

(2) Section 12, chapter 7, Laws of 1983 and RCW 82.49.050; and

(3) Section 13, chapter 7, Laws of 1983 and RCW 82.49.060.

*Sec. 6 was vetoed, see message at end of chapter.

****NEW SECTION. Sec. 7. This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections.***

*Sec. 7 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 8. 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.

****NEW SECTION. Sec. 9. 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 immediately, except sections 3 through 6 of this act shall take effect July 1, 1985.***

*Sec. 9 was partially vetoed, see message at end of chapter.

Passed the Senate April 28, 1985.

Passed the House April 28, 1985.

Approved by the Governor April 30, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 30, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to several sections, Engrossed Substitute Senate Bill No. 3678, entitled:

"AN ACT Relating to revenue and taxation."

The following sections of Engrossed Substitute Senate Bill No. 3678 are hereby vetoed: Sections 2, 3, 4, 5, 6, 7, and the part of Section 9 which refers to Sections 3 through 6.

This bill was a very narrow one which is a response to the recent U. S. Supreme Court decision in Armeo relating to taxation. Due to the narrowness of my request and the need for passage of this legislation, I requested that no other measures regardless of merit be attached as amendments.

Although the sections I am vetoing may be meritorious, I believe it is important to maintain the legislation as a narrow bill as requested.

With the exceptions of those sections vetoed, Engrossed Substitute Senate Bill No. 3678 is approved."

CHAPTER 191

[Engrossed House Bill No. 787]

AVALANCHE CONTROL PROCEDURES—USE OF EXPLOSIVES

AN ACT Relating to explosives; amending RCW 70.74.191; and adding a new section to chapter 70.74 RCW.

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