BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-1118.1/15

ATTY/TYPIST: JA:lel

BRIEF DESCRIPTION: Extending and modifying the commute trip reduction tax credit.

AN ACT Relating to extending and modifying the commute trip reduction tax credit; amending RCW 82.70.900, 82.70.050, 82.70.020, 82.70.025, 82.70.040, and 82.70.060; creating a new section; and providing expiration dates.

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

Sec. 1. RCW 82.70.900 and 2014 c 222 s 707 are each amended to read as follows:

Except for RCW 82.70.050, this chapter expires ((~~June 30, 2015~~)) July 1, 2024.

Sec. 2. RCW 82.70.050 and 2014 c 222 s 706 are each amended to read as follows:

(1) ((~~During the 2013-2015 fiscal biennium,~~)) The director ((~~shall~~)) must on the 25th of February, May, August, and November of each year advise the state treasurer of the amount of credit taken under RCW 82.70.020 during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(2) On the last day of March, June, September, and December of each year, the state treasurer, based upon information provided by the department, ((~~shall~~)) must deposit to the general fund a sum

equal to the dollar amount of the credit provided under RCW 82.70.020 from the multimodal transportation account.

(3) This section expires January 1, 2025.

Sec. 3. RCW 82.70.020 and 2014 c 222 s 704 are each amended to read as follows:

(1) Employers in this state who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to their own or other employees for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before ((~~July 1, 2015~~)) January 1, 2024, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per employee per fiscal year.

(2) Property managers who are taxable under chapter 82.04 or 82.16 RCW and provide financial incentives to persons employed at a worksite in this state managed by the property manager for ride sharing, for using public transportation, for using car sharing, or for using nonmotorized commuting before ((~~July 1, 2015~~)) January 1, 2024, are allowed a credit against taxes payable under chapters 82.04 and 82.16 RCW for amounts paid to or on behalf of these persons for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, not to exceed sixty dollars per person per fiscal year.

(3) The credit under this section is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per fiscal year. No refunds may be granted for credits under this section.

(4) A person may not receive credit under this section for amounts paid to or on behalf of the same employee under both chapters 82.04 and 82.16 RCW.

(5) A person may not take a credit under this section for amounts claimed for credit by other persons.

Sec. 4. RCW 82.70.025 and 2005 c 297 s 2 are each amended to read as follows:

(1) Application for tax credits under this chapter must be received by the department between the first day of January and the 31st day of January, following the calendar year in which the applicant made payments to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting. The application ((~~shall~~)) must be made to the department in a form and manner prescribed by the department. The application ((~~shall~~)) must contain information regarding the number of employees for which incentives are paid during the calendar year, the amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting, ((~~the amount of credit deferred under RCW 82.70.040(2)(b)(i) to be used, and other information required by the department. For applications due by January 31, 2006, the application shall not include amounts paid from January 1, 2005, through June 30, 2005, to or on behalf of employees for ride sharing in vehicles carrying two or more persons, for using public transportation, for using car sharing, or for using nonmotorized commuting~~)) and other information required by the department.

(2) The department ((~~shall~~)) must rule on the application within sixty days of the deadline provided in subsection (1) of this section.

(3)(a) The department ((~~shall~~)) must disapprove any application not received by the deadline provided in subsection (1) of this section ((~~regardless of the reason that the application was received after the deadline~~)) except that the department may accept applications received up to fifteen calendar days after the deadline if the application was not received by the deadline because of circumstances beyond the control of the taxpayer.

(b) In making a determination whether the failure of a taxpayer to file an application by the deadline 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.

(4) After an application is approved and tax credit granted, no increase in the credit ((~~shall be~~)) is allowed.

(5) To claim a credit under this chapter, a person must electronically file with the department all returns, forms, and other information the department requires in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

Sec. 5. RCW 82.70.040 and 2014 c 222 s 705 are each amended to read as follows:

(1)(a)(i) The department ((~~shall~~)) must keep a running total of all credits allowed under RCW 82.70.020 during each fiscal year. The department ((~~shall~~)) may not allow any credits that would cause the total amount allowed to exceed ((~~two~~)) five million ((~~seven hundred fifty thousand~~)) dollars in any fiscal year. ((~~This limitation includes any deferred credits carried forward under subsection (2)(b)(i) of this section from prior years.~~))

(ii) During the 2013-2015 fiscal biennium, the department ((~~shall~~)) may not allow any credits that would cause the total amount allowed to exceed one million five hundred thousand dollars in any fiscal year. ((~~This limitation includes any deferred credits carried forward under subsection (2)(b)(i) of this section from prior years.~~))

(b) If the total amount of credit applied for by all applicants in any year exceeds the limit in this subsection, the department ((~~shall~~)) must ratably reduce the amount of credit allowed for all applicants so that the limit in this subsection is not exceeded. If a credit is reduced under this subsection, the amount of the reduction may not be carried forward and claimed in subsequent fiscal years.

(2)(a) Tax credits under RCW 82.70.020 may not be claimed in excess of the amount of tax otherwise due under chapter 82.04 or 82.16 RCW.

(b)((~~(i) Through June 30, 2005, a person with taxes equal to or in excess of the credit under RCW 82.70.020, and therefore not subject to the limitation in (a) of this subsection, may elect to defer tax credits for a period of not more than three years after the year in which the credits accrue. No credits deferred under this subsection (2)(b)(i) may be used after June 30, 2008. A person deferring tax credits under this subsection (2)(b)(i) must submit an~~

~~application as provided in RCW 82.70.025 in the year in which the deferred tax credits will be used. This application is subject to the provisions of subsection (1) of this section for the year in which the tax credits will be applied. If a deferred credit is reduced under subsection (1)(b) of this section, the amount of deferred credit disallowed because of the reduction may be carried forward as long as the period of deferral does not exceed three years after the year in which the credit was earned.~~

~~(ii) For credits approved by the department after June 30, 2005, the approved credit may be carried forward to subsequent years until used~~)) For credits approved by the department through June 30, 2015, the approved credit may be carried forward and used for tax reporting periods through December 31, 2016. Credits approved after June 30, 2015, must be used for tax reporting periods within the calendar year they are approved by the department and may not be carried forward to subsequent tax reporting periods. Credits carried forward as authorized by this subsection are subject to the limitation in subsection (1)(a) of this section for the fiscal year for which the credits were originally approved.

(3) No person ((~~shall~~)) may be approved for tax credits under RCW 82.70.020 in excess of two hundred thousand dollars in any fiscal year. This limitation does not apply to credits carried forward from prior years under subsection (2)(b) of this section.

(4) No person may claim tax credits after June 30, ((~~2015~~)) 2024.

(5) ((~~Credits may not be carried forward other than as authorized in subsection (2)(b) of this section.~~

~~(6)~~)) No person is eligible for tax credits under RCW 82.70.020 if the additional revenues for the multimodal transportation account created by Engrossed Substitute House Bill No. 2231 (chapter 361, Laws of 2003) are terminated.

Sec. 6. RCW 82.70.060 and 2005 c 319 s 138 are each amended to read as follows:

The commute trip reduction ((~~task force shall determine the effectiveness of the tax credit under RCW 82.70.020, the grant program in RCW 70.94.996, and the relative effectiveness of the tax credit and the grant program~~)) board must determine the effectiveness of the tax credit under RCW 82.70.020 as part of its ongoing evaluation of the commute trip reduction law ((~~and report to the senate and house transportation committees and to the fiscal~~

~~committees of the house of representatives and the senate. The report must include information on the amount of tax credits claimed to date and recommendations on future funding between the tax credit program and the grant program. The report must be incorporated into the recommendations required in RCW 70.94.537(5)~~)). The department must provide requested information to the commute trip reduction board for its assessment.

NEW SECTION. **Sec. 7.** This section is the tax preference performance statement for the tax preference contained in RCW 82.70.020. 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.

(1) 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).

(2) It is the legislature's specific public policy objective to reduce traffic congestion, automobile-related air pollution and energy use through employer-based programs that encourage the use of alternatives to the single-occupant vehicle traveling during peak traffic periods for the commute trip. It is the legislature's intent to extend the commute trip reduction tax credit, which encourages employers to provide financial incentives to their employees for using ride sharing, public transportation, car sharing, or nonmotorized commuting. Pursuant to chapter 43.136 RCW, the joint legislative audit and review committee must review the commute trip reduction tax credit established under RCW 82.70.020 by December 1, 2024.

(3) If a review finds that the percentage of Washingtonians using commute alternatives is increasing, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preferences.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee should refer to the office of financial management's results Washington sustainable transportation performance metric or

data used by the department of transportation's commute trip reduction program.

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