

CHAPTER 293.

[Sub. H. B. 576.]

EXCISE TAXES.

AN ACT relating to revenue and taxation; amending section 82.04.050, chapter 15, Laws of 1961 and RCW 82.04.050; amending section 82.04.296, chapter 15, Laws of 1961 and RCW 82.04.296; amending section 82.04.300, chapter 15, Laws of 1961 and RCW 82.04.300; amending section 82.04.370, chapter 15, Laws of 1961 and RCW 82.04.370; amending section 82.04.430, chapter 15, Laws of 1961 and RCW 82.04.430; amending section 82.08.020, chapter 15, Laws of 1961 and RCW 82.08.020; amending section 82.08.030, chapter 15, Laws of 1961 and RCW 82.08.030; amending section 82.08.070, chapter 15, Laws of 1961 and RCW 82.08.070; amending section 82.12.020, chapter 15, Laws of 1961 and RCW 82.12.020; amending section 82.12.030, chapter 15, Laws of 1961 and RCW 82.12.030; amending section 82.12.040, chapter 15, Laws of 1961 and RCW 82.12.040; amending section 82.16.010, chapter 15, Laws of 1961 and RCW 82.16.010; amending section 82.16.020, chapter 15, Laws of 1961 and RCW 82.16.020; and amending section 82.16.070, chapter 15, Laws of 1961 and RCW 82.16.070; amending section 82.12.010, chapter 15, Laws of 1961 and RCW 82.12.010; amending section 82.12.060, chapter 15, Laws of 1961, and RCW 82.12.060.

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

SECTION 1. Section 82.04.050, chapter 15, Laws of 1961 and RCW 82.04.050 are each amended to read as follows:

RCW 82.04.050 amended.

“Sale at retail” or “retail sale” means every sale of tangible personal property (including articles produced, fabricated, or imprinted) other than a sale to one who (a) purchases for the purpose of resale as tangible personal property in the regular course of business, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tan-

B&O tax. “Sale at retail”, “retail sale”.

gible personal property or substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsection (2), and 82.04.290.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, excluding, however, services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; (d) the sale of or charge made for labor and services rendered in respect to automobile towing, armored car service and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house,

tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same.

The term shall also include the renting or leasing of tangible personal property to consumers.

The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any publicly owned street, place, road, highway, bridge, or trestle which is used or to be used primarily for foot or vehicular traffic, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects.

SEC. 2. Section 83.04.296, chapter 15, Laws of 1961 and RCW 82.04.296 are each amended to read as follows:

RCW 82.04.296
amended.

From and after the first day of May, 1955, there is levied and shall be collected from every person for the act or privilege of engaging in business activities, as a part of the tax imposed by this chapter, other than those activities taxed pursuant to RCW 82.04.260, an additional tax in the amount of sixty percent of the tax payable under this chapter: *Provided*, That from April 1, 1959 the additional tax imposed under this section shall be in the amount of seventy-six percent of the tax payable under this chapter. To facilitate collection of this additional tax, the tax commission is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the exact amount of the additional tax hereby imposed.

Additional tax
imposed.

RCW 82.04.300 amended.

SEC. 3. Section 82.04.300, chapter 15, Laws of 1961 and RCW 82.04.300 are each amended to read as follows:

Exemptions—Based on monthly gross.

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, 82.04.275, 82.04.280 and 82.04.290 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.

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.

RCW 82.04.370 amended.

SEC. 4. Section 82.04.370, chapter 15, Laws of 1961 and RCW 82.04.370 are each amended to read as follows:

Exemptions—Certain fraternal and beneficiary organizations.

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. Exemption is limited, however, to gross income from premiums, fees, assessments, dues or other charges directly attributable to the insurance or death benefits provided by such societies, associations, or corporations.

SEC. 5. Section 82.04.430, chapter 15, Laws of 1961 and RCW 82.04.430 are each amended to read as follows:

RCW 82.04.430 amended.

In computing tax there may be deducted from the measure of tax the following items: Deductions enumerated.

(1) Amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such;

(2) Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees, and endowment funds. This paragraph shall not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. Dues which are for, or graduated upon, the amount of service rendered by the recipient thereof are not permitted as a deduction hereunder;

(3) The amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of RCW 82.04.450;

(4) The amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis;

(5) So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the state or the United States government upon the sale thereof;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived by any person as compensation for the receiving, washing, sorting, and packing of fresh perishable horticultural products and the material and supplies used therein when performed for the person exempted in RCW 82.04.330, either as agent or as independent contractor;

(8) Amounts derived as compensation for services rendered or to be rendered to patients by a hospital, as defined in chapter 70.41 RCW, devoted to the care of human beings with respect to the prevention or treatment of disease, sickness, or suffering, when such hospital is operated by the United States or any of its instrumentalities, or by the state, or any of its political subdivisions;

(9) Amounts derived as compensation for services rendered to patients by a hospital, as defined in chapter 70.41 RCW, which is operated as a non-profit corporation, nursing homes and homes for unwed mothers operated as religious or charitable organizations, but only if no part of the net earnings received by such an institution inures directly or indirectly, to any person other than the institution entitled to deduction hereunder. In no event shall any such deduction be allowed, unless the hospital building is entitled to exemption from taxation under the property tax laws of this state.

RCW 82.08.020
amended.

SEC. 6. Section 82.08.020, chapter 15, Laws of 1961 and RCW 82.08.020 are each amended to read as follows:

Retail sales
tax. Imposed.

There is levied and there shall be collected a tax on each retail sale in this state equal to three and one-third percent of the selling price: *Provided*, That from April 1, 1959 the tax imposed by this section shall be equal to four percent of the selling price. The tax imposed under this chapter shall apply to successive retail sales of the same property and to the retail sale of intoxicating liquor by the Washington state liquor stores.

SEC. 7. Section 82.08.030, chapter 15, Laws of 1961 and RCW 82.08.030 are each amended to read as follows:

RCW 82.08.030
amended.

The tax hereby levied shall not apply to the following sales: Exemptions

(1) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under chapter 82.04, 82.16, or 82.28: *Provided*, That the exemption provided by this paragraph shall not be construed as providing any exemption from the tax imposed by chapter 82.12;

(2) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under chapter 82.16, when the gross proceeds from such sales must be included in the measure of the tax imposed under said chapter;

(3) The distribution and newsstand sale of newspapers;

(4) Sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(5) Sales of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and sales of motor vehicle fuel taxable under chapter 82.36: *Provided*, That the use of any such fuel upon which a refund of the motor vehicle fuel tax has been obtained shall be subject to the tax imposed by chapter 82.12;

(6) Sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11) of RCW 82.16.010;

(7) Auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm and not otherwise;

(8) Sales to corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of 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;

(9) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(10) Sales of tangible personal property (other than the type referred to in subdivision (11) hereof) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail, or water in interstate or foreign commerce: *Provided*, That any actual use of such property in this state shall, at the time of such actual use, be subject to the tax imposed by chapter 82.12;

(11) Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers used by the holder of a carrier permit issued by the Interstate Commerce Commission

authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving;

(12) Sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce: *Provided*, That the purchaser must be the holder of a carrier permit issued by the Interstate Commerce Commission and that the vehicles will first move upon the highways of this state from the point of delivery in this state to a point outside of this state under the authority of a one-transit permit issued by the director of licenses pursuant to the provisions of RCW 46.16.100;

(13) Sales of motor vehicles and trailers to non-residents of this state for use outside of this state, even though delivery be made within this state, but only when (a) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the director of licenses pursuant to the provisions of RCW 46.16.100, or (b) said motor vehicles and trailers will be registered and licensed immediately under the laws of the state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.

(14) Sales to nonresidents of this state for use outside of this state of tangible personal property which becomes a component part of any machinery or other article of personal property belonging to such nonresident, in the course of installing, repairing, cleaning, altering, or improving the same and also sales of or charges made for labor and services rendered in respect to any installing, repairing,

cleaning, altering, or improving, of personal property of or for a nonresident, but this subsection (14) shall apply only when the seller agrees to, and does, deliver the property to the purchaser at a point outside this state, or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state;

(15) Sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the Federal Boating Act of 1958, even though delivery be made within this state, but only when (a) the watercraft will not be used within this state for more than forty-five days and (b) an appropriate exemption certificate supported by identification ascertaining residence as provided by the tax commission and signed by the purchaser or his agent establishing the fact that the purchaser is a nonresident and that the watercraft is for use outside of this state, one copy to be filed with the tax commission with the regular report and a duplicate to be retained by the dealer.

(16) Sales of baby chicks and turkey poults for use in the production for sale of poultry or poultry products.

(17) Sales to nonresidents of this state for use outside of this state of machinery and implements for use in conducting a farming activity, when such machinery and implements will be transported immediately outside the state. As proof of exemption, an affidavit or certification in such form as the tax commission shall require shall be made for each such sale, to be retained as a business record of the seller.

(18) Sales for use in noncontiguous states, territories and possessions of the United States, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his designated agent at the

usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such non-contiguous states, territories and possessions.

SEC. 8. Section 82.08.070, chapter 15, Laws of 1961 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, at least ninety percent of the tax actually collected or owing during the month.

Seller's monthly, estimated, annual, etc., returns—Remittance—Reporting procedures and forms.

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 chapter.

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.

RCW 82.12.020
amended.

SEC. 9. Section 82.12.020, chapter 15, Laws of 1961 and RCW 82.12.020 are each amended to read as follows:

Use tax.
Imposed.

There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property purchased at retail, or acquired by lease, gift, or bailment, or extracted or produced or manufactured by the person so using the same. This tax will not apply with respect to the use of any article of tangible personal property purchased, extracted, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property in this state. This tax shall

apply to the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including byproducts used by the manufacturer thereof, except at hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state. Except as provided in subdivision (2) of RCW 82.12.030, payment by one purchaser or user of tangible personal property of the tax imposed by chapter 82.08 or 82.12 shall not have the effect of exempting any other purchaser or user of the same property from the taxes imposed by such chapters. The tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of three and one-third percent: *Provided*, That from April 1, 1959 the tax levied in this section shall be in an amount equal to the value of the article used by the taxpayer multiplied by the rate of four percent.

SEC. 10. Section 82.12.030, chapter 15, Laws of 1961 and RCW 82.12.030 are each amended to read as follows:

RCW 82.12.030
amended.

The provisions of this chapter shall not apply:

Exemptions.

(1) In respect to the use of any article of tangible personal property brought into the state by a non-resident thereof for his use or enjoyment while temporarily within the state unless such property is used in conducting a nontransitory business activity within the state; or in respect to the use by a non-resident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three months, and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resi-

dent thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside this state was not actual and substantial;

(2) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease, gift or bailment if the sale thereof to, or the use thereof by, the present user or his bailor or donor has already been subjected to tax under chapter 82.08 or 82.12 and such tax has been paid by the present user or by his bailor or donor;

(3) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16;

(4) In respect to the use of any airplane, locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or watercraft, and in respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer used primarily for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of licenses pursuant to RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state; and

in respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state;

(5) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the Constitution of the state or under the Constitution or laws of the United States;

(6) In respect to the use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and motor vehicle fuel taxable under chapter 82.36: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the director of licenses shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the tax commission;

(7) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of RCW 82.16.010;

(8) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity, if such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise;

(9) In respect to the use of tangible personal property by corporations which have been incorporated under any act of the congress of the United States 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, flood, and other national calamities and to devise and carry on measures for preventing the same;

(10) In respect to the use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(11) In respect to the use of baby chicks and turkey poults in the production for sale of poultry or poultry products;

(12) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same;

(13) In respect to the use of motor vehicles, equipped with dual controls, which are loaned to school districts and used by such districts exclusively in connection with their high school driver training program;

(14) In respect to the use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to the taxes imposed by chapter 82.08 RCW or chapter 82.12 RCW.

RCW 82.12.040
amended.

SEC. 11. Section 82.12.040, chapter 15, Laws of 1961 and RCW 82.12.040 are each amended to read as follows:

Retailers to
collect tax—
Penalty.

Every person who maintains in this state a place of business or a stock of goods shall obtain from the tax commission a certificate of registration, and shall, at the time of making sales, or making trans-

fers of either possession or title or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. For the purposes of this chapter, the phrase "maintains in this state a place of business" shall include the solicitation of sales and/or taking of orders by sales agents or traveling representatives.

Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property of his principals made for use in this state, shall, at the time such sales are made, collect from the purchasers the tax imposed under this chapter, and for that purpose shall be deemed a retailer as defined in this chapter.

The tax required to be collected by this chapter shall be deemed to be held in trust by the retailer until paid to the tax commission and any retailer who appropriates or converts the tax collected to his own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed shall be guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the tax commission in the manner prescribed, whether such failure is the result of his own acts or the result of acts or conditions beyond his control, he shall nevertheless, be personally liable to the state for the amount of such tax.

Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter, or makes in any form of advertising, verbal or otherwise, any statements which might infer that he is absorbing the tax or paying the tax for the purchaser or transferee by

an adjustment of prices, or at a price including the tax, or in any other manner whatsoever shall be guilty of a misdemeanor.

RCW 82.16.010
amended.

SEC. 12. Section 82.16.010, chapter 15, Laws of 1961 and RCW 82.16.010 are each amended to read as follows:

Public utility
tax.
Definitions.

For the purposes of this chapter, unless otherwise required by the context:

(1) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business;

(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business;

(3) "Railroad car business" means the business of operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business;

(4) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale;

(5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale;

(6) "Telephone business" means the business of operating or managing any telephone line or part of a telephone line and exchange or exchanges used in the conduct of the business of affording tele-

phonic communication for hire. It includes cooperative or farmer line telephone companies or associations operating an exchange;

(7) "Telegraph business" means the business of affording telegraphic communication for hire;

(8) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural;

(9) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81.68.010 and 81.80.010: *Provided*, That "motor transportation business" shall not mean or include the transportation of logs or other forest products exclusively upon private roads or private highways;

(10) "Urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person

performing a local or interstate line-haul of such property;

(11) "Public service business" means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, pipe line, public warehouse, toll bridge, toll logging road, water transportation and wharf businesses;

(12) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(13) The meaning attributed, in chapter 82.04, to the terms "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provisions of this chapter.

RCW 82.16.020
amended.

SEC. 13. Section 82.16.020, chapter 15, Laws of 1961 and RCW 82.16.020 are each amended to read as follows:

Public utility
tax imposed.

There is levied and there shall be collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax shall be equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(1) Railroad, express, railroad car, water distribution, light and power, telephone and telegraph businesses: Three percent: *Provided*, That a common carrier railroad operating as a plant facility to the extent of eighty percent or more of its business shall pay a tax of one-fourth of one percent on such eighty percent or more of its business and three percent on all other business;

(2) Gas distribution business: Two percent;

(3) Urban transportation business: One-half of one percent;

(4) Vessels under sixty-five feet in length operating upon the waters within the state: One-half of one percent;

(5) Motor transportation and all public service businesses other than ones mentioned above: One and one-half percent.

SEC. 14. Section 82.16.070, chapter 15, Laws of 1961 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: *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

Monthly, estimated, annual, etc., returns—
Remittances—
Reporting procedures and forms.

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, at least ninety percent of the tax actually collected or owing during the month.

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 chapter.

RCW 82.12.010
amended.

SEC. 15. Section 82.12.010, chapter 15, Laws of 1961 and RCW 82.12.010 are each amended to read as follows:

Use tax.
Definitions.

For the purposes of this chapter:

(1) "Value of the article used" shall mean the consideration, whether money, credit, rights, or other property, expressed in terms of money, paid or

given or contracted to be paid or given by the purchaser to the seller for the article of tangible personal property, the use of which is taxable under this chapter. The term includes, in addition to the consideration paid or given or contracted to be paid or given, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules and regulations as the tax commission may prescribe.

In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules and regulations as the tax commission may prescribe;

(2) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within this state;

(3) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08;

(4) "Retailer" means every person engaged in the business of selling tangible personal property

at retail and every person required to collect from purchasers the tax imposed under this chapter;

(5) The meaning ascribed to words and phrases in chapters 82.04 and 82.08, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer", in addition to the meaning ascribed to it in chapters 82.04 and 82.08 insofar as applicable, shall also mean any person who distributes or displays or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services.

RCW 82.12.060 amended.

SEC. 16. Section 82.12.060, chapter 15, Laws of 1961 and RCW 82.12.060 are each amended to read as follows:

Installment sales and leases—Bailments.

In the case of installment sales and leases of personal property, 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 the case of property acquired by bailment, the commission, by regulation, may provide for payment of the tax due in installments based on the reasonable rental for the property as determined under RCW 82.12.010 (1).

Passed the House March 9, 1961.

Passed the Senate March 9, 1961.

Approved by the Governor March 21, 1961.