

## CHAPTER 172

[Substitute House Bill No. 753]

EXCISE TAXES—PAYMENT DUE DATES—ALUMINUM MANUFACTURERS,  
BUSINESS AND OCCUPATION TAX

AN ACT Relating to revenue and taxation; amending section 82.04.240, chapter 15, Laws of 1961 as last amended by section 1, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.240; amending section 82.04.250, chapter 15, Laws of 1961 as last amended by section 4, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.250; amending section 82.04.260, chapter 15, Laws of 1961 as last amended by section 2, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.260; amending section 82.04.270, chapter 15, Laws of 1961 as last amended by section 6, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.270; amending section 82.04.440, chapter 15, Laws of 1961 as last amended by section 16, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.440; amending section 82.24.020, chapter 15, Laws of 1961 as last amended by section 3, chapter 157, Laws of 1972 ex. sess. and RCW 82.24.020; amending section 1, chapter 7, Laws of 1981 and RCW 82.32.\_\_\_\_; amending section 82.32.090, chapter 15, Laws of 1961 as last amended by section 2, chapter 7, Laws of 1981 and RCW 82.32.090; amending section 5, chapter 7, Laws of 1981 (uncodified); adding a new section to chapter 82.04 RCW; repealing section 82.04.275, chapter 15, Laws of 1961, section 12, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.275; providing effective dates; and declaring an emergency.

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

Section 1. Section 82.04.240, chapter 15, Laws of 1961 as last amended by section 1, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.240 are each amended to read as follows:

Upon every person except persons taxable under subsections (2), (3), (4), (5), ~~((6))~~ (7), (8), or ~~(9)((-or-(10)))~~ of RCW 82.04.260 engaging within this state in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, manufactured, multiplied by the rate of forty-four one-hundredths of one percent.

The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

Sec. 2. Section 82.04.250, chapter 15, Laws of 1961 as last amended by section 4, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.250 are each amended to read as follows:

Upon every person except persons taxable under ~~((subsection (9) of))~~ RCW 82.04.260(8) engaging within this state in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the business, multiplied by the rate of forty-four one-hundredths of one percent.

Sec. 3. Section 82.04.260, chapter 15, Laws of 1961 as last amended by section 2, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.260 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, soybeans into soybean oil, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour or oil manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

~~(6) ((Upon every person engaging within this state in the business of manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions, as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of four-tenths of one percent.~~

~~(7))~~ Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

~~((8))~~ (7) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of thirty-three one-hundredths of one percent.

~~((9))~~ (8) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to

such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

~~((10))~~ (9) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

~~((11))~~ (10) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent.

~~((12))~~ (11) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of thirty-three one-hundredths of one percent.

~~((13))~~ (12) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of thirty-three one hundredths of one percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers,

trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

Sec. 4. Section 82.04.270, chapter 15, Laws of 1961 as last amended by section 6, chapter 281, Laws of 1971 ex. sess. and RCW 82.04.270 are each amended to read as follows:

(1) Upon every person except persons taxable under subsections (1) or ~~((9))~~ (8) of RCW 82.04.260 engaging within this state in the business of making sales at wholesale; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of forty-four one-hundredths of one percent.

(2) The tax imposed by this section is levied and shall be collected from every person engaged in the business of distributing in this state articles of tangible personal property, owned by them from their own warehouse or other central location in this state to two or more of their own retail stores or outlets, where no change of title or ownership occurs, the intent hereof being to impose a tax equal to the wholesaler's tax upon persons performing functions essentially comparable to those of a wholesaler, but not actually making sales: PROVIDED, That the tax designated in this section may not be assessed twice to the same person for the same article. The amount of the tax as to such persons shall be computed by multiplying forty-four one-hundredths of one percent of the value of the article so distributed as of the time of such distribution: PROVIDED, That persons engaged in the activities described in this subsection shall not be liable for the tax imposed if by proper invoice it can be shown that they have purchased such property from a wholesaler who has paid a business and occupation tax to the state upon the same articles. This proviso shall not apply to purchases from manufacturers as defined in RCW 82.04.110. The department of revenue shall prescribe uniform and equitable rules for the purpose of ascertaining such value, which value shall correspond as nearly as possible to the gross proceeds from sales at wholesale in this state of similar articles of like quality and character, and in similar quantities by other taxpayers: PROVIDED FURTHER, That delivery trucks or vans will not under the purposes of this section be considered to be retail stores or outlets.

Sec. 5. Section 82.04.440, chapter 15, Laws of 1961 as last amended by section 16, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.440 are each amended to read as follows:

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 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), ~~((6);)~~ or ~~((8))~~ (7) of RCW 82.04.260 with respect to extracting or manufacturing of the products so sold, and that 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.

Sec. 6. Section 82.24.020, chapter 15, Laws of 1961 as last amended by section 3, chapter 157, Laws of 1972 ex. sess. and RCW 82.24.020 are each amended to read as follows:

There is levied and there shall be collected as hereinafter provided, a tax upon the sale, use, consumption, handling, possession or distribution of all cigarettes, in an amount equal to the rate of ~~((six and one-half))~~ eight and one-half mills per cigarette. For purposes of this ~~((section, and for purposes of))~~ chapter and RCW 28A.47.440 ~~((and 73.32.130))~~, "possession" shall mean both (1) physical possession by the purchaser and, (2) when cigarettes are being transported to or held for the purchaser or his designee by a person other than the purchaser, constructive possession by the purchaser or his designee, which constructive possession shall be deemed to occur at the location of the cigarettes being so transported or held.

Sec. 7. Section 1, chapter 7, Laws of 1981 and RCW 82.32.\_\_\_\_ are each amended to read as follows:

~~((For tax payments due for the taxable activities occurring in and after the month of September, 1981, through April, 1982, the taxes imposed in chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW are due and payable within twenty-five days following the end of the month in which the taxable activities occur. For tax payments due for taxable activities occurring after April, 1982, and through April, 1983, these taxes are due and payable within twenty days following the end of the month in which the taxable activities occur. For tax payments due for taxable activities occurring after April, 1983, these taxes are due and payable within fifteen days following the end of the month in which the taxable activities occur.))~~ Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within the number of days specified in the following table after the end of the month in which the taxable activities occur.

For activities occurring in	Days
October, 1981 through March, 1982	25
April, 1982 through March, 1983	20
April, 1983 and thereafter	15

The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

The department of revenue 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. 8. Section 82.32.090, chapter 15, Laws of 1961 as last amended by section 2, chapter 7, Laws of 1981 and RCW 82.32.090 are each amended to read as follows:

If payment of any tax due is not received by the department of revenue by the due date, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received (~~((by the last day of the month in which the due date falls))~~) within thirty days after the due date, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received (~~((by the last day of the month next succeeding the month in which the due date falls))~~) within sixty days after the due date, there shall be assessed a total penalty of twenty percent of the amount of the tax. No penalty so added shall be less than two dollars.

If payment of any tax is received within the first ten days of the month next succeeding the month in which the tax is payable, the amount of such payment shall be credited to, and shall be treated for all purposes as having been collected during, the fiscal year which includes the month preceding the month in which such due date falls. Effective June 30, 1985, and thereafter if the payment of any tax is received during the first twenty-five days in the month in which the tax is payable, the amount of such payment shall be credited to, and shall be treated for all purposes as having been collected during, the fiscal year which includes the month preceding the month in which such due date falls.

If a warrant be issued by the department of revenue for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of five percent of the amount of the tax, but not less than five dollars.

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, or seven dollars, whichever is greater.

Sec. 9. Section 5, chapter 7, Laws of 1981 (uncodified) is amended to read as follows:

This act shall take effect (~~((September))~~) October 1, 1981.

NEW SECTION. Sec. 10. There is added to chapter 82.04 RCW a new section to read as follows:

Upon every person engaging within this state in the business of manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of four-tenths of one percent.

NEW SECTION. Sec. 11. Section 82.04.275, chapter 15, Laws of 1961, section 12, chapter 149, Laws of 1967 ex. sess. and RCW 82.04.275 are each repealed.

NEW SECTION. Sec. 12. 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 July 1, 1981, except section 9 of this act shall take effect September 1, 1981, sections 7 and 8 of this act shall take effect October 1, 1981, and section 10 of this act shall take effect July 1, 1983.

Passed the House April 26, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

## CHAPTER 173

[Second Substitute House Bill No. 338]

### JOINT OPERATING AGENCIES, NUCLEAR GENERATING PROJECTS— NEGOTIATED CONTRACTS

AN ACT Relating to operating agencies; amending section 2, chapter 28, Laws of 1977 ex. sess. and RCW 43.52.490; adding new sections to chapter 43.52 RCW; repealing section 1, chapter 28, Laws of 1977 ex. sess. and RCW 43.52.480; prescribing penalties; providing expiration dates; and declaring an emergency.

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

Section 1. Section 2, chapter 28, Laws of 1977 ex. sess. and RCW 43.52.490 are each amended to read as follows:

An operating agency shall have the power to ~~((make any amendment to))~~ amend a contract previously let for the construction of ~~((the project))~~ a nuclear generating project and associated facilities, by change order or other writing, if ~~((it finds))~~ the managing director certifies to the executive board or executive committee and the executive board or executive committee finds in an open public meeting that:

(1) Such amendment is necessary to comply with applicable regulations or standards of any state or federal governmental agency, or with any change in plans or specifications recommended by the architect-engineer in charge of the project or under his (its) direction or by the managing director for the purpose of improving the safety or feasibility of the project or expediting completion of the project on the most advantageous terms in the public interest~~((:PROVIDED, That))~~;

(2) Such amendment does not provide for a type of construction ~~((of a project))~~ basically different from that provided for in such contract;

(3) The plans and specifications for work to be performed under the contract amendment are at least fifty percent complete; and