

NEW SECTION. Sec. 20. 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. 21. 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.

Passed the Senate March 29, 1985.

Passed the House March 27, 1985.

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CHAPTER 32

[Senate Bill No. 3551]

EXCISE TAX STATUTES—CLARIFIED IN LIGHT OF BOND V. BURROWS

AN ACT Relating to clarifying the excise tax statutes after Bond v. Burrows, 103 Wn.2d 153 (1984); amending RCW 82.04.255, 82.04.290, and 82.04.2904; reenacting and amending RCW 82.04.2901; reenacting RCW 82.08.020; repealing RCW 82.04.2902 and 82.04.2903; and declaring an emergency.

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

Sec. 1. Section 82.08.020, chapter 15, Laws of 1961 as last amended by section 41, chapter 3, Laws of 1983 2nd ex. sess. and by section 62, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.08.020 are each reenacted to read as follows:

(1) There is levied and there shall be collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) The tax imposed under this chapter shall apply to successive retail sales of the same property.

(3) The rate provided in this section applies to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

Sec. 2. Section 3, chapter 65, Laws of 1970 ex. sess. as last amended by section 1, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.255 are each amended to read as follows:

Upon every person engaging within the state as a real estate broker; as to such persons, the amount of the tax with respect to such business shall be equal to the gross income of the business, multiplied by the rate of 1.50 percent (~~(: PROVIDED, That this tax shall be imposed only if all of the amendments contained in sections 2 through 4 of this 1983 act become law)~~).

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to

salesmen or associate brokers in the same office on a particular transaction: PROVIDED, HOWEVER, That where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission: AND PROVIDED FURTHER, That where the brokerage office has paid the tax as provided herein, salesmen or associate brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction.

Sec. 3. Section 82.04.290, chapter 15, Laws of 1961 as last amended by section 2, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.290 are each amended to read as follows:

Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and 82.04.280; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of 1.50 percent (~~(PROVIDED, That this tax shall be imposed only if all of the amendments contained in sections 1, 3, and 4 of this 1983 act become law))~~). This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

Sec. 4. Section 3, chapter 130, Laws of 1975-'76 2nd ex. sess. as last amended by section 4, chapter 3, Laws of 1983 2nd ex. sess. and by section 61, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.2901 are each reenacted and amended to read as follows:

~~((Until and including the thirtieth day of June, 1985;))~~ There is levied and shall be collected from every person, other than persons taxed under RCW 82.04.2904, for the act or privilege of engaging in business activities, as a part of the tax imposed by the provisions of RCW 82.04.250, an additional tax equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under the provisions of RCW 82.04.250 (~~(PROVIDED, That the additional tax under this section shall be imposed only if all of the amendments contained in sections 1 through 3 of this 1983 act become law))~~).

To facilitate collection of this additional tax, the department of revenue is authorized to adjust the basic rates of persons to which this section

applies in such manner as to reflect the amount to the nearest one-thousandth of one percent of the additional tax hereby imposed, adjusting ten-thousandths equal to or greater than five ten-thousandths to the greater thousandth.

Sec. 5. Section 3, chapter 9, Laws of 1983 as amended by section 3, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.2904 are each amended to read as follows:

(1) 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 under RCW 82.04.220 through 82.04.240, inclusive, and RCW 82.04.260 through 82.04.280, inclusive, an additional tax equal to ten percent multiplied by the tax payable under RCW 82.04.220 through 82.04.240, inclusive, and RCW 82.04.260 through 82.04.280, inclusive(~~:(PROVIDED, That this additional tax shall be imposed only if all of the amendments contained in sections 1, 2, and 4 of this 1983 act become law))~~).

(2) There is also levied and shall be collected from every person for the act or privilege of engaging in the business activity of making sales at retail which are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as a part of the tax imposed under RCW 82.04.250, an additional tax equal to ten percent multiplied by the tax payable on those activities under RCW 82.04.250(~~:(PROVIDED, That this additional tax shall be imposed only if all of the amendments contained in sections 1, 2, and 4 of this 1983 act become law))~~).

(3) To facilitate collection of these additional taxes, the department of revenue is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the amount to the nearest one-thousandth of one percent of the additional tax hereby imposed, adjusting ten-thousandths equal to or greater than five ten-thousandths to the greater thousandth.

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

- (1) Section 3, chapter 7, Laws of 1983 and RCW 82.04.2902; and
- (2) Section 5, chapter 9, Laws of 1983 and RCW 82.04.2903.

NEW SECTION. Sec. 7. 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.

Passed the Senate February 8, 1985.

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