

That the provisions of this rule shall not apply as to size to ground wires run from instrument transformers or meters.

Passed the Senate March 12, 1987.

Passed the House April 9, 1987.

Approved by the Governor April 17, 1987.

Filed in Office of Secretary of State April 17, 1987.

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## CHAPTER 80

[Senate Bill No. 5139]

### CIGARETTE TAX STATUTES CONSOLIDATED

AN ACT Relating to the consolidation of the cigarette tax statutes; amending RCW 82-.24.020, 82.24.070, 82.24.260, 82.02.030, and 82.32.265; and repealing RCW 28A.47.440 and 82.24.025.

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

Sec. 1. Section 82.24.020, chapter 15, Laws of 1961 as last amended by section 15, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.24.020 are each amended to read as follows:

(1) 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 ~~((eight))~~ eleven and one-half mills per cigarette.

(2) Wholesalers and retailers subject to the payment of this tax may, if they wish, absorb one-half mill per cigarette of the tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

(3) For purposes of this chapter ((and RCW 28A.47.440)), "possession" shall mean both (a) physical possession by the purchaser and, (b) 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.

~~((2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section; RCW 82.24.025, and 28A.47.440:))~~

Sec. 2. Section 82.24.070, chapter 15, Laws of 1961 as last amended by section 14, chapter 299, Laws of 1971 ex. sess. and RCW 82.24.070 are each amended to read as follows:

Wholesalers and retailers subject to the provisions of this chapter shall be allowed compensation for their services in affixing the stamps herein required a sum equal to two percent of the first four mills of the value of the stamps purchased or affixed by them, one percent of the next one mill of the

value of the stamps purchased or affixed by them, and one-half of one percent of the next one-half mill of the value of the stamps purchased or affixed by them.

Sec. 3. Section 13, chapter 3, Laws of 1986 and RCW 82.24.260 are each amended to read as follows:

Any retailer who sells or otherwise disposes of any unstamped cigarettes other than (1) a federal instrumentality with respect to sales to authorized military personnel and (2) a federally recognized Indian tribal organization with respect to sales to enrolled members of the tribe shall collect from the buyer or transferee thereof the tax imposed on such buyer or transferee by this chapter (~~(and RCW 28A.47.440)~~) and remit the same to the department after deducting from the tax collected the compensation he would have been entitled to under the provisions of this chapter (~~(and RCW 28A.47.440)~~) if he had affixed stamps to the unstamped cigarettes. Such remittance shall be made at the same time and manner as remittances of the retail sales tax as required under chapters 82.08 and 82.32 RCW. In the event the retailer fails to collect the tax from the buyer or transferee, or fails to remit the same, the retailer shall be personally liable therefor, and shall be subject to the administrative provisions of RCW 82.24.230 with respect to the collection thereof by the department. The provisions of this section shall not relieve the buyer or possessor of unstamped cigarettes from personal liability for the tax imposed by this chapter (~~(and RCW 28A.47.440)~~).

Nothing in this section shall relieve a wholesaler or a retailer from the requirements of affixing stamps pursuant to RCW 82.24.040 and 82.24.050.

Sec. 4. Section 31, chapter 35, Laws of 1982 1st ex. sess. as last amended by section 5, chapter 296, Laws of 1986 and RCW 82.0. 030 are each amended to read as follows:

(1) The rate of the additional taxes under RCW 54.28.020(2), 54.28.025(2), 66.24.210(2), 66.24.290(2), 82.04.2901, 82.16.020(2), 82.26.020(2), 82.27.020(5), 82.29A.030(2), 82.44.020(5), and 82.45.060(2) shall be seven percent; and

(2) The rate of the additional taxes under RCW 82.08.150(4) shall be fourteen percent(~~(and~~

~~(3) The rate of the additional taxes under RCW 82.24.020(2) shall be fifteen percent)).~~

Sec. 5. Section 4, chapter 414, Laws of 1985 and RCW 82.32.265 are each amended to read as follows:

(1) The department may retain, by written contract, collection agencies licensed under chapter 19.16 RCW or licensed under the laws of another state or the District of Columbia for the purpose of collecting from

sources outside the state of Washington taxes including interest and penalties thereon imposed under this title and RCW ((~~28A.47.440 and~~)) 84.33.041.

(2) Only accounts represented by tax warrants filed in the superior court of a county in the state as provided by RCW 82.32.210 may be assigned to a collection agency, and no such assignment may be made unless the department has previously notified or has attempted to notify the taxpayer of his or her right to petition for correction of assessment within the time provided and in accordance with the procedures set forth in chapter 82.32 RCW.

(3) Collection agencies assigned accounts for collection under this section shall have only those remedies and powers that would be available to them as assignees of private creditors. However, nothing in this section limits the right to enforce the liability for taxes lawfully imposed under the laws of this state in the courts of another state or the District of Columbia as provided by the laws of such jurisdictions and RCW 4.24.140 and 4.24.150.

(4) The account of the taxpayer shall be credited with the amounts collected by a collection agency before reduction for reasonable collection costs, including attorneys fees, that the department is authorized to negotiate on a contingent fee or other basis.

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

(1) Section 28A.47.440, chapter 223, Laws of 1969 ex. sess., section 1, chapter 70, Laws of 1971 ex. sess., section 1, chapter 157, Laws of 1972 ex. sess., section 2, chapter 189, Laws of 1983 and RCW 28A.47.440; and

(2) Section 2, chapter 59, Laws of 1979 ex. sess. and RCW 82.24.025.

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#### EXPLANATORY NOTE

This act consolidates all sections imposing cigarette taxes into one chapter of the code. In addition, it consolidates three of the four existing tax rates and the surtax rate on cigarettes into a single rate, it consolidates all provisions on compensation of retailers and wholesalers of cigarettes into one section, and it makes the necessary reference changes. This act makes no substantive changes.

Passed the Senate February 18, 1987.

Passed the House April 1, 1987.

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