

CHAPTER 69

[Substitute House Bill No. 2344]

TAXES—PAYMENT BY ELECTRONIC FUNDS TRANSFERS

AN ACT Relating to the payment of taxes by electronic funds transfer; amending RCW 82.32.060 and 82.32.080; adding a new section to chapter 82.32 RCW; and providing an effective date.

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

Sec. 1. Section 82.32.060, chapter 15, Laws of 1961 as last amended by section 20, chapter 378, Laws of 1989 and RCW 82.32.060 are each amended to read as follows:

If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes prescribed by RCW 82.32.050 a tax has been paid in excess of that properly due, the excess amount paid within such period shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at the taxpayer's option. No refund or credit shall be made for taxes paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

Notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the department within one year of the date that the amount of the refund or credit due to the United States is finally determined and filed within four years of the date on which the tax was paid: PROVIDED, That no interest shall be allowed on such refund.

Any such refunds shall be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 shall have any refunds paid by electronic funds transfer.

Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer shall be paid in like manner, upon the filing with the department of a certified copy of the order or judgment of the court. Except as to the credits in computing tax authorized by RCW 82.04.435, interest at the rate of three percent per annum shall be allowed by the department and by any court on the amount of

any refund or recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer.

Sec. 2. Section 82.32.080, chapter 15, Laws of 1961 as last amended by section 18, chapter 299, Laws of 1987 ex. sess. and RCW 82.32.080 are each amended to read as follows:

Payment of the tax may be made by uncertified check under such regulations as the department shall prescribe, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such check had not been tendered.

Payment of the tax is to be made by electronic funds transfer if the amount of the tax due in a calendar year is two hundred forty thousand dollars or more, provided that until January 1, 1992, electronic funds transfer shall be required only if the tax due is one million eight hundred thousand dollars or more. After January 1, 1992, the department may by rule provide for tax thresholds between two hundred forty thousand dollars and one million eight hundred thousand dollars for mandatory use of electronic funds transfer. All taxes administered by this chapter are subject to this requirement except the taxes authorized by chapters 82.14A, 82.14B, 82.24, 82.27, 82.29A, and 84.33 RCW. It is the intent of this section to require electronic funds transfer for those taxes reported on the department's combined excise tax return or any successor return.

A return or remittance which is transmitted to the department by United States mail shall be deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it, except as otherwise provided in this chapter.

The department, for good cause shown, may extend the time for making and filing any return, and may grant such reasonable additional time within which to make and file returns as it may deem proper, but any permanent extension granting the taxpayer a reporting date without penalty more than ten days beyond the due date, and any extension in excess of thirty days shall be conditional on deposit with the department of an amount to be determined by the department which shall be approximately equal to the estimated tax liability for the reporting period or periods for which the extension is granted. In the case of a permanent extension or a temporary extension of more than thirty days the deposit shall be deposited within the state treasury with other tax funds and a credit recorded to the taxpayer's account which may be applied to taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where an extension of more than thirty days has been granted.

The department shall review the requirement for deposit at least annually and may require a change in the amount of the deposit required when it believes that such amount does not approximate the tax liability for the reporting period or periods for which the extension is granted.

The department shall keep full and accurate records of all funds received and disbursed by it. Subject to the provisions of RCW 82.32.105 and 82.32.350, the department shall apply the payment of the taxpayer first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

The department may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon. When such return is not accepted, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the procedures provided in RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The above authority to refuse to accept a return shall not apply when a return is timely filed and a timely payment has been made by electronic funds transfer.

NEW SECTION. Sec. 3. A new section is added to chapter 82.32 RCW to read as follows:

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

The electronic funds transfer is to be completed so that the state receives collectible funds on or before the next banking day following the due date.

The department shall adopt rules necessary to implement the provisions of RCW 82.32.080 and this section. The rules shall include but are not limited to: (1) Coordinating the filing of tax returns with payment by electronic funds transfer; (2) form and content of electronic funds transfer; (3) voluntary use of electronic funds transfer with permission of the department; (4) use of commonly accepted means of electronic funds transfer; (5) means of crediting and recording proof of payment; and (6) means of correcting errors in transmission. Any changes in the threshold of tax shall be implemented with a separate rule-making procedure.

NEW SECTION. Sec. 4. 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. 5. This act shall take effect January 1, 1991.

Passed the House February 6, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.