

AN ACT Relating to the working families' tax exemption, also known as the working families tax credit

Sec. 1. RCW 82.08.0206 and 2021 c 195 s 2 are each amended to read as follows:

(1) A working families' tax (~~(exemption)~~) credit, in the form of a (~~(remittance)~~) refund of tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales and use taxes paid under this chapter and chapter 82.12 RCW after January 1, 2022.

(2) For purposes of the (~~(exemption)~~) credit in this section, the following definitions apply:

(a) (i) (~~(Except as provided in (a) (ii) of this subsection,~~) "Eligible low-income person" means an individual who:

(A) Is eligible for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code; and

(B) Properly files a federal income tax return for the prior federal tax year (~~(as a Washington resident,~~) and has been a resident of the state of Washington more than one hundred eighty days of the year for which the (~~(exemption)~~) credit is claimed.

(ii) "Eligible low-income person" also means an individual who:

(A) Meets the requirements provided in (a) (i) (B) of this subsection; and

(B) Would otherwise qualify for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code except for the fact that the individual filed a federal income tax return (~~(in)~~) for the prior federal tax year using a valid individual

taxpayer identification number in lieu of a social security number, (~~(or)~~) and the individual's (~~has a~~) spouse, if any, (~~or dependent without~~) and all qualifying children, if any, have a valid individual taxpayer identification number or a social security number.

(b) "Income" means earned income as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code.

(c) "Individual" means an individual or an individual and that individual's spouse if they file a federal joint income tax return.

(d) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of the effective date of this section, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(e) "Qualifying child" means a qualifying child as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code, except the child may have a valid individual taxpayer identification number in lieu of a social security number.

(3)(a) Except as provided in (b) and (c) of this subsection, for calendar year 2023 and thereafter, the working families' tax (~~(remittance)~~) credit refund amount for the prior calendar year is:

(i) \$300 for eligible persons with no qualifying children;
(ii) \$600 for eligible persons with one qualifying child;
(iii) \$900 for eligible persons with two qualifying children; or

(iv) \$1,200 for eligible persons with three or more qualifying children.

(b) The (~~(remittance)~~) refund amounts provided in (a) of this subsection will be reduced, rounded to the nearest dollar, as follows:

(i) For eligible persons with no qualifying children, beginning at \$2,500 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(ii) For eligible persons with one qualifying child, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 12 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iii) For eligible persons with two qualifying children, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 15 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iv) For eligible persons with three or more qualifying children, beginning at \$5,000 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(c) If the ~~((remittance))~~ refund for an eligible person as calculated in this section is greater than or equal to one cent, but less than \$50, the ~~((remittance))~~ refund amount is \$50.

(d) The ~~((remittance))~~ refund amounts in this section shall be adjusted for inflation every year beginning January 1, 2024, based upon changes in the consumer price index ~~((during the previous calendar year))~~ that are published by November 15 of the previous year for the most recent twelve-month period. The adjusted refund amounts shall be rounded to the nearest five dollars.

(e) For purposes of this section, "consumer price index" means, for any ~~((calendar year))~~ twelve-month period, ~~((that year's))~~ the average consumer price index for that twelve-month period for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(4) The working families' tax ~~((exemption))~~ credit shall be administered as provided in this subsection.

(a) The ~~((remittance))~~ refund paid under this section will be paid to eligible filers who apply pursuant to this subsection.

(i) Application must be made to the department in a form and manner determined by the department. If the application process is initially done electronically, the department must provide a paper application upon request. The application must include any information and documentation as required by the department.

(ii) Application for the ~~((remittance))~~ refund under this section must be made in the year following the year for which the federal tax return was filed, but in no case may any ~~((remittance))~~ refund be provided for any period before January 1, 2022. The department must use the eligible person's most recent federal tax filing for the tax year for which the remittance is being claimed to ~~((process))~~ calculate the ~~((remittance))~~ refund.

(iii) A person may not claim ~~((an exemption))~~ a credit on behalf of a deceased individual. No individual may claim ~~((an exemption))~~ a credit under this section for any year in a disallowance period under Title 26 U.S.C. Sec. 32(k)(1) of the internal revenue code or for any year for which the individual is ineligible to claim the credit in Title 26 U.S.C. Sec. 32 of

the internal revenue code by reason of Title 26 U.S.C. Sec. 32(k)(2) of the internal revenue code.

(b) The department shall protect the privacy and confidentiality of personal data of ~~((remittance))~~ refund recipients in accordance with chapter 82.32 RCW.

(c) The department shall, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of, and requirements for, the credit provided in this section.

(d) The department must work with the internal revenue service to administer the ~~((exemption))~~ credit on an automatic basis as soon as practicable.

(5) Receipt of the ~~((remittance))~~ refund under this section may not be used in eligibility determinations for any state income support programs or in making public charge determinations.

(6) The department may adopt rules necessary to implement this section. This includes establishing a date by which applications will be accepted, with the aim of accepting applications as soon as possible. ~~((The department may gather necessary data through audit and other administrative records, including verification through internal revenue service data.))~~

(7) The department must review the application and determine eligibility for the working families' tax ~~((exemption))~~ credit based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(8) If, upon review of internal revenue service data or other information obtained by the department, it appears that an

individual received a (~~remittance~~) refund that the individual was not entitled to, or received a larger (~~remittance~~) refund than the individual was entitled to, the department may assess against the individual the overpaid amount. The department may also assess such overpaid amount against the individual's spouse if the (~~remittance~~) refund in question was based on both spouses filing a joint federal income tax return for the year for which the (~~remittance~~) refund was claimed.

(a) Interest as provided under RCW 82.32.050 applies to assessments authorized under this subsection (8) starting six months after the date the department issued the assessment until the amount due under this subsection (8) is paid in full to the department. Except as otherwise provided in this subsection, penalties may not be assessed on amounts due under this subsection.

(b) If an amount due under this subsection is not paid in full by the date due, or the department issues a warrant for the collection of amounts due under this subsection, the department may assess the applicable penalties under RCW 82.32.090. Penalties under this subsection (8)(b) may not be made due until six months after the department's issuance of (~~their~~) the assessment.

(c) If the department finds by clear, cogent, and convincing evidence that an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent claim for (~~remittance~~) refund under this section, the department must assess a penalty of 50 percent of the overpaid amount. This penalty is in addition to any other applicable penalties assessed in accordance with (b) of this subsection (8).

(9) If, within the period allowed for refunds under RCW 82.32.060, the department finds that an individual received a lesser (~~(remittance)~~) refund than the individual was entitled to, the department must remit the additional amount due under this section to the individual.

(10) Interest does not apply to (~~(remittances)~~) refunds provided under (~~(chapter 195, Laws of 2021)~~) this section.

(11) Chapter 82.32 RCW applies to the administration of this section.

Sec. 2. RCW 82.32.050 and 2020 c 139 s 60 are each amended to read as follows:

(1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the additional amount shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(a) For tax liabilities arising before January 1, 1992, interest shall be computed at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the earlier of December 31, 1998, or the date of payment. After December 31, 1998, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For tax liabilities arising after December 31, 1991, the rate of interest shall be variable and computed as provided in subsection (2) of this section from the last day of the year in which the deficiency is incurred until the date of payment. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(c) (i) Except as otherwise provided in (c) (ii) of this subsection (1), interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice.

(ii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3), interest must be computed from the last day of April immediately following each such annual reporting period included in the notice, until the due date of the notice.

(iii) If payment in full is not made by the due date of the notice, additional interest shall be computed under this subsection (1) (c) until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded

annually. That average shall be calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year.

(3) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the due date of any assessment or correction of an assessment for additional taxes, penalties, or interest as the department deems proper.

(4) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

(5) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department (~~(of revenue)~~) and that has a statutorily defined due date. "Return" also means an application for refund under RCW 82.08.0206.

Sec. 3. RCW 82.32.290 and 2013 c 309 s 2 are each amended to read as follows:

(1)(a) It is unlawful:

(i) For any person to engage in business without having obtained a certificate of registration as provided in this chapter;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business without having obtained a certificate of registration as provided in this chapter;

(iii) For any person to tear down or remove any order or notice posted by the department in violation of this chapter;

(iv) For any person to aid or abet another in any attempt to evade the payment of any tax or any part thereof;

(v) For any purchaser to fraudulently sign or furnish to a seller documentation authorized under RCW 82.04.470 without intent to resell the property purchased or with intent to otherwise use the property in a manner inconsistent with the claimed wholesale purchase; or

(vi) For any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the department or its duly authorized agent; or to fail or refuse to permit the inspection or appraisal of any property by the department or its duly authorized agent; or to refuse to offer testimony or produce any record as required.

(b) Any person violating any of the provisions of this subsection (1) is guilty of a gross misdemeanor in accordance with chapter 9A.20 RCW.

(2) (a) It is unlawful:

(i) For any person to engage in business after revocation of a certificate of registration unless the person's certification of registration has been reinstated;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit

the company to engage in business after revocation of a certificate of registration unless the company's certificate of registration has been reinstated; or

(iii) For any person to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or part thereof.

(b) Any person violating any of the provisions of this subsection (2) is guilty of a class C felony in accordance with chapter 9A.20 RCW.

(3) In addition to the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, is guilty of the offense of perjury in the second degree ~~((7))~~ and ~~((any company for which a false return, or a return containing a false statement, as aforesaid, is made,))~~ must be punished, upon conviction thereof, by a fine of not more than one thousand dollars.

(4) (a) It is unlawful for any person to knowingly sell, purchase, install, transfer, manufacture, create, design, update, repair, use, possess, or otherwise make available, in this state, any automated sales suppression device or phantom-ware. However, it is not unlawful for persons to possess or use automated sales suppression devices or phantom-ware as authorized in RCW 82.32.670(6).

(b) It is unlawful for any person who has been convicted of violating this section to engage in business, or participate in any business as an owner, officer, director, partner, trustee, member, or manager of the business, unless:

(i) All taxes, penalties, and interest lawfully due are paid;

(ii) The person pays in full all penalties and fines imposed on the person for violating this section; and

(iii) The person, if the person is engaging in business subject to tax under this title, or the business in which the person participates, enters into a written agreement with the department for the electronic monitoring of the business's sales, by a method acceptable to the department, for five years at the business's expense.

(c) (i) Any person violating the provisions of this subsection, including material breach of the monitoring agreement under (b) (iii) of this subsection, is guilty of a class C felony in accordance with chapter 9A.20 RCW and, as applicable, (c) (ii) of this subsection.

(ii) Any person violating the provisions of this subsection by furnishing an automated sales suppression device or phantom-ware to another person or by updating or repairing another person's automated sales suppression device or phantom-ware is, in addition to the punishments prescribed in chapter 9A.20 RCW, subject to a mandatory fine fixed by the court in an amount equal to the greater of ten thousand dollars, the defendant's gain from the commission of the crime, or the state's loss from the commission of the crime. For purposes of this subsection (4) (c) (ii), "loss" means the total of all taxes, penalties, and interest certified by the department to be due, as of the date of sentencing, as a result of any violation of the provisions of this subsection by a person using the automated sales suppression device or phantom-ware obtained from, or updated or repaired by, the defendant, which results in the defendant's conviction for violating the provisions of this subsection.

(d) For the purposes of this subsection (4), the terms "manager," "member," and "officer" have the same meaning as in RCW 82.32.145.

(e) The definitions in RCW 82.32.670 apply to this subsection (4).

(5) For the purposes of this section, "return" has the same meaning as in RCW 82.32.050.

(6) All penalties or punishments provided in this section are in addition to all other penalties provided by law.

DRAFT