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HOUSE BILL 2945

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State of Washington

66th Legislature

2020 Regular Session

By Representative Sullivan

1       AN ACT Relating to aerospace business and occupation taxes and  
2 world trade organization compliance; reenacting and amending RCW  
3 82.04.260; adding a new section to chapter 82.04 RCW; creating a new  
4 section; and declaring an emergency.

5       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION.   **Sec. 1.**   A new section is added to chapter 82.04  
7 RCW to read as follows:

8       (1)   Beginning on April 1, 2020, the tax rates in RCW  
9 82.04.260(11) do not apply unless the following conditions are met:

10       (a) The United States and the European Union reach an agreement  
11 resolving their world trade organization disputes regarding large  
12 civil airplanes that expressly allows the tax rates in RCW  
13 82.04.260(11);

14       (b) A taxpayer certifies in the manner and form prescribed by the  
15 department that the taxpayer meets all of the requirements of the  
16 agreement in (a) of this subsection that allows the tax rates in RCW  
17 82.04.260(11); and

18       (c) The department issues a determination that the conditions in  
19 (a) and (b) of this subsection have been met, in which case the tax  
20 rates in RCW 82.04.260(11) apply as of the date of the taxpayer's  
21 certification to the department.

1       (2) The department must provide written notice of the  
2 determination and effective date to affected parties, the chief clerk  
3 of the house of representatives, the secretary of the senate, the  
4 office of the code reviser, and others as deemed appropriate by the  
5 department.

6       (3) For the purpose of this section, "world trade organization  
7 disputes regarding large civil airplanes" means any disputes filed by  
8 the United States or the European Union prior to the effective date  
9 of this section that involve either allegations of subsidies to large  
10 civil airplanes, or allegations of taxes imposed by Washington on  
11 commercial airplanes, or both.

12       **Sec. 2.** RCW 82.04.260 and 2019 c 425 s 1 and 2019 c 336 s 4 are  
13 each reenacted and amended to read as follows:

14       (1) Upon every person engaging within this state in the business  
15 of manufacturing:

16       (a) Wheat into flour, barley into pearl barley, soybeans into  
17 soybean oil, canola into canola oil, canola meal, or canola by-  
18 products, or sunflower seeds into sunflower oil; as to such persons  
19 the amount of tax with respect to such business is equal to the value  
20 of the flour, pearl barley, oil, canola meal, or canola by-product  
21 manufactured, multiplied by the rate of 0.138 percent;

22       (b) Beginning July 1, 2025, seafood products that remain in a  
23 raw, raw frozen, or raw salted state at the completion of the  
24 manufacturing by that person; or selling manufactured seafood  
25 products that remain in a raw, raw frozen, or raw salted state at the  
26 completion of the manufacturing, to purchasers who transport in the  
27 ordinary course of business the goods out of this state; as to such  
28 persons the amount of tax with respect to such business is equal to  
29 the value of the products manufactured or the gross proceeds derived  
30 from such sales, multiplied by the rate of 0.138 percent. Sellers  
31 must keep and preserve records for the period required by RCW  
32 82.32.070 establishing that the goods were transported by the  
33 purchaser in the ordinary course of business out of this state;

34       (c)(i) Except as provided otherwise in (c)(iii) of this  
35 subsection, from July 1, 2025, until January 1, 2036, dairy products;  
36 or selling dairy products that the person has manufactured to  
37 purchasers who either transport in the ordinary course of business  
38 the goods out of state or purchasers who use such dairy products as  
39 an ingredient or component in the manufacturing of a dairy product;

1 as to such persons the tax imposed is equal to the value of the  
2 products manufactured or the gross proceeds derived from such sales  
3 multiplied by the rate of 0.138 percent. Sellers must keep and  
4 preserve records for the period required by RCW 82.32.070  
5 establishing that the goods were transported by the purchaser in the  
6 ordinary course of business out of this state or sold to a  
7 manufacturer for use as an ingredient or component in the  
8 manufacturing of a dairy product.

9 (ii) For the purposes of this subsection (1)(c), "dairy products"  
10 means:

11 (A) Products, not including any marijuana-infused product, that  
12 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,  
13 parts 131, 133, and 135, including by-products from the manufacturing  
14 of the dairy products, such as whey and casein; and

15 (B) Products comprised of not less than seventy percent dairy  
16 products that qualify under (c)(ii)(A) of this subsection, measured  
17 by weight or volume.

18 (iii) The preferential tax rate provided to taxpayers under this  
19 subsection (1)(c) does not apply to sales of dairy products on or  
20 after July 1, 2023, where a dairy product is used by the purchaser as  
21 an ingredient or component in the manufacturing in Washington of a  
22 dairy product;

23 (d)(i) Beginning July 1, 2025, fruits or vegetables by canning,  
24 preserving, freezing, processing, or dehydrating fresh fruits or  
25 vegetables, or selling at wholesale fruits or vegetables manufactured  
26 by the seller by canning, preserving, freezing, processing, or  
27 dehydrating fresh fruits or vegetables and sold to purchasers who  
28 transport in the ordinary course of business the goods out of this  
29 state; as to such persons the amount of tax with respect to such  
30 business is equal to the value of the products manufactured or the  
31 gross proceeds derived from such sales multiplied by the rate of  
32 0.138 percent. Sellers must keep and preserve records for the period  
33 required by RCW 82.32.070 establishing that the goods were  
34 transported by the purchaser in the ordinary course of business out  
35 of this state.

36 (ii) For purposes of this subsection (1)(d), "fruits" and  
37 "vegetables" do not include marijuana, useable marijuana, or  
38 marijuana-infused products; and

39 (e) Wood biomass fuel; as to such persons the amount of tax with  
40 respect to the business is equal to the value of wood biomass fuel

1 manufactured, multiplied by the rate of 0.138 percent. For the  
2 purposes of this section, "wood biomass fuel" means a liquid or  
3 gaseous fuel that is produced from lignocellulosic feedstocks,  
4 including wood, forest, or field residue and dedicated energy crops,  
5 and that does not include wood treated with chemical preservations  
6 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

7 (2) Upon every person engaging within this state in the business  
8 of splitting or processing dried peas; as to such persons the amount  
9 of tax with respect to such business is equal to the value of the  
10 peas split or processed, multiplied by the rate of 0.138 percent.

11 (3) Upon every nonprofit corporation and nonprofit association  
12 engaging within this state in research and development, as to such  
13 corporations and associations, the amount of tax with respect to such  
14 activities is equal to the gross income derived from such activities  
15 multiplied by the rate of 0.484 percent.

16 (4) Upon every person engaging within this state in the business  
17 of slaughtering, breaking and/or processing perishable meat products  
18 and/or selling the same at wholesale only and not at retail; as to  
19 such persons the tax imposed is equal to the gross proceeds derived  
20 from such sales multiplied by the rate of 0.138 percent.

21 (5)(a) Upon every person engaging within this state in the  
22 business of acting as a travel agent or tour operator and whose  
23 annual taxable amount for the prior calendar year was two hundred  
24 fifty thousand dollars or less; as to such persons the amount of the  
25 tax with respect to such activities is equal to the gross income  
26 derived from such activities multiplied by the rate of 0.275 percent.

27 (b) Upon every person engaging within this state in the business  
28 of acting as a travel agent or tour operator and whose annual taxable  
29 amount for the calendar year was more than two hundred fifty thousand  
30 dollars; as to such persons the amount of the tax with respect to  
31 such activities is equal to the gross income derived from such  
32 activities multiplied by the rate of 0.275 percent through June 30,  
33 2019, and 0.9 percent beginning July 1, 2019.

34 (6) Upon every person engaging within this state in business as  
35 an international steamship agent, international customs house broker,  
36 international freight forwarder, vessel and/or cargo charter broker  
37 in foreign commerce, and/or international air cargo agent; as to such  
38 persons the amount of the tax with respect to only international  
39 activities is equal to the gross income derived from such activities  
40 multiplied by the rate of 0.275 percent.

1       (7) Upon every person engaging within this state in the business  
2 of stevedoring and associated activities pertinent to the movement of  
3 goods and commodities in waterborne interstate or foreign commerce;  
4 as to such persons the amount of tax with respect to such business is  
5 equal to the gross proceeds derived from such activities multiplied  
6 by the rate of 0.275 percent. Persons subject to taxation under this  
7 subsection are exempt from payment of taxes imposed by chapter 82.16  
8 RCW for that portion of their business subject to taxation under this  
9 subsection. Stevedoring and associated activities pertinent to the  
10 conduct of goods and commodities in waterborne interstate or foreign  
11 commerce are defined as all activities of a labor, service or  
12 transportation nature whereby cargo may be loaded or unloaded to or  
13 from vessels or barges, passing over, onto or under a wharf, pier, or  
14 similar structure; cargo may be moved to a warehouse or similar  
15 holding or storage yard or area to await further movement in import  
16 or export or may move to a consolidation freight station and be  
17 stuffed, unstuffed, containerized, separated or otherwise segregated  
18 or aggregated for delivery or loaded on any mode of transportation  
19 for delivery to its consignee. Specific activities included in this  
20 definition are: Wharfage, handling, loading, unloading, moving of  
21 cargo to a convenient place of delivery to the consignee or a  
22 convenient place for further movement to export mode; documentation  
23 services in connection with the receipt, delivery, checking, care,  
24 custody and control of cargo required in the transfer of cargo;  
25 imported automobile handling prior to delivery to consignee; terminal  
26 stevedoring and incidental vessel services, including but not limited  
27 to plugging and unplugging refrigerator service to containers,  
28 trailers, and other refrigerated cargo receptacles, and securing ship  
29 hatch covers.

30       (8)(a) Upon every person engaging within this state in the  
31 business of disposing of low-level waste, as defined in RCW  
32 43.145.010; as to such persons the amount of the tax with respect to  
33 such business is equal to the gross income of the business, excluding  
34 any fees imposed under chapter 43.200 RCW, multiplied by the rate of  
35 3.3 percent.

36       (b) If the gross income of the taxpayer is attributable to  
37 activities both within and without this state, the gross income  
38 attributable to this state must be determined in accordance with the  
39 methods of apportionment required under RCW 82.04.460.

1 (9) Upon every person engaging within this state as an insurance  
2 producer or title insurance agent licensed under chapter 48.17 RCW or  
3 a surplus line broker licensed under chapter 48.15 RCW; as to such  
4 persons, the amount of the tax with respect to such licensed  
5 activities is equal to the gross income of such business multiplied  
6 by the rate of 0.484 percent.

7 (10) Upon every person engaging within this state in business as  
8 a hospital, as defined in chapter 70.41 RCW, that is operated as a  
9 nonprofit corporation or by the state or any of its political  
10 subdivisions, as to such persons, the amount of tax with respect to  
11 such activities is equal to the gross income of the business  
12 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
13 percent thereafter.

14 (11) Except as otherwise provided in section 1 of this act:

15 (a) Beginning October 1, 2005, upon every person engaging within  
16 this state in the business of manufacturing commercial airplanes, or  
17 components of such airplanes, or making sales, at retail or  
18 wholesale, of commercial airplanes or components of such airplanes,  
19 manufactured by the seller, as to such persons the amount of tax with  
20 respect to such business is, in the case of manufacturers, equal to  
21 the value of the product manufactured and the gross proceeds of sales  
22 of the product manufactured, or in the case of processors for hire,  
23 equal to the gross income of the business, multiplied by the rate of:

24 (i) 0.4235 percent from October 1, 2005, through June 30, 2007;  
25 and

26 (ii) 0.2904 percent beginning July 1, 2007.

27 (b) Beginning July 1, 2008, upon every person who is not eligible  
28 to report under the provisions of (a) of this subsection (11) and is  
29 engaging within this state in the business of manufacturing tooling  
30 specifically designed for use in manufacturing commercial airplanes  
31 or components of such airplanes, or making sales, at retail or  
32 wholesale, of such tooling manufactured by the seller, as to such  
33 persons the amount of tax with respect to such business is, in the  
34 case of manufacturers, equal to the value of the product manufactured  
35 and the gross proceeds of sales of the product manufactured, or in  
36 the case of processors for hire, be equal to the gross income of the  
37 business, multiplied by the rate of 0.2904 percent.

38 (c) For the purposes of this subsection (11), "commercial  
39 airplane" and "component" have the same meanings as provided in RCW  
40 82.32.550.

1 (d) In addition to all other requirements under this title, a  
2 person reporting under the tax rate provided in this subsection (11)  
3 must file a complete annual tax performance report with the  
4 department under RCW 82.32.534.

5 (e)(i) Except as provided in (e)(ii) of this subsection (11),  
6 this subsection (11) does not apply on and after July 1, 2040.

7 (ii) With respect to the manufacturing of commercial airplanes or  
8 making sales, at retail or wholesale, of commercial airplanes, this  
9 subsection (11) does not apply on and after July 1st of the year in  
10 which the department makes a determination that any final assembly or  
11 wing assembly of any version or variant of a commercial airplane that  
12 is the basis of a siting of a significant commercial airplane  
13 manufacturing program in the state under RCW 82.32.850 has been sited  
14 outside the state of Washington. This subsection (11)(e)(ii) only  
15 applies to the manufacturing or sale of commercial airplanes that are  
16 the basis of a siting of a significant commercial airplane  
17 manufacturing program in the state under RCW 82.32.850.

18 (12)(a) Until July 1, 2045, upon every person engaging within  
19 this state in the business of extracting timber or extracting for  
20 hire timber; as to such persons the amount of tax with respect to the  
21 business is, in the case of extractors, equal to the value of  
22 products, including by-products, extracted, or in the case of  
23 extractors for hire, equal to the gross income of the business,  
24 multiplied by the rate of 0.4235 percent from July 1, 2006, through  
25 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,  
26 2045.

27 (b) Until July 1, 2045, upon every person engaging within this  
28 state in the business of manufacturing or processing for hire: (i)  
29 Timber into timber products or wood products; (ii) timber products  
30 into other timber products or wood products; or (iii) products  
31 defined in RCW 19.27.570(1); as to such persons the amount of the tax  
32 with respect to the business is, in the case of manufacturers, equal  
33 to the value of products, including by-products, manufactured, or in  
34 the case of processors for hire, equal to the gross income of the  
35 business, multiplied by the rate of 0.4235 percent from July 1, 2006,  
36 through June 30, 2007, and 0.2904 percent from July 1, 2007, through  
37 June 30, 2045.

38 (c) Until July 1, 2045, upon every person engaging within this  
39 state in the business of selling at wholesale: (i) Timber extracted  
40 by that person; (ii) timber products manufactured by that person from

1 timber or other timber products; (iii) wood products manufactured by  
2 that person from timber or timber products; or (iv) products defined  
3 in RCW 19.27.570(1) manufactured by that person(~~(+)~~); as to such  
4 persons the amount of the tax with respect to the business is equal  
5 to the gross proceeds of sales of the timber, timber products, wood  
6 products, or products defined in RCW 19.27.570(1) multiplied by the  
7 rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and  
8 0.2904 percent from July 1, 2007, through June 30, 2045.

9 (d) Until July 1, 2045, upon every person engaging within this  
10 state in the business of selling standing timber; as to such persons  
11 the amount of the tax with respect to the business is equal to the  
12 gross income of the business multiplied by the rate of 0.2904  
13 percent. For purposes of this subsection (12)(d), "selling standing  
14 timber" means the sale of timber apart from the land, where the buyer  
15 is required to sever the timber within thirty months from the date of  
16 the original contract, regardless of the method of payment for the  
17 timber and whether title to the timber transfers before, upon, or  
18 after severance.

19 (e) For purposes of this subsection, the following definitions  
20 apply:

21 (i) "Biocomposite surface products" means surface material  
22 products containing, by weight or volume, more than fifty percent  
23 recycled paper and that also use nonpetroleum-based phenolic resin as  
24 a bonding agent.

25 (ii) "Paper and paper products" means products made of interwoven  
26 cellulosic fibers held together largely by hydrogen bonding. "Paper  
27 and paper products" includes newsprint; office, printing, fine, and  
28 pressure-sensitive papers; paper napkins, towels, and toilet tissue;  
29 kraft bag, construction, and other kraft industrial papers;  
30 paperboard, liquid packaging containers, containerboard, corrugated,  
31 and solid-fiber containers including linerboard and corrugated  
32 medium; and related types of cellulosic products containing  
33 primarily, by weight or volume, cellulosic materials. "Paper and  
34 paper products" does not include books, newspapers, magazines,  
35 periodicals, and other printed publications, advertising materials,  
36 calendars, and similar types of printed materials.

37 (iii) "Recycled paper" means paper and paper products having  
38 fifty percent or more of their fiber content that comes from  
39 postconsumer waste. For purposes of this subsection (12)(e)(iii),  
40 "postconsumer waste" means a finished material that would normally be



1 disposed of as solid waste, having completed its life cycle as a  
2 consumer item.

3 (iv) "Timber" means forest trees, standing or down, on privately  
4 or publicly owned land. "Timber" does not include Christmas trees  
5 that are cultivated by agricultural methods or short-rotation  
6 hardwoods as defined in RCW 84.33.035.

7 (v) "Timber products" means:

8 (A) Logs, wood chips, sawdust, wood waste, and similar products  
9 obtained wholly from the processing of timber, short-rotation  
10 hardwoods as defined in RCW 84.33.035, or both;

11 (B) Pulp, including market pulp and pulp derived from recovered  
12 paper or paper products; and

13 (C) Recycled paper, but only when used in the manufacture of  
14 biocomposite surface products.

15 (vi) "Wood products" means paper and paper products; dimensional  
16 lumber; engineered wood products such as particleboard, oriented  
17 strand board, medium density fiberboard, and plywood; wood doors;  
18 wood windows; and biocomposite surface products.

19 (f) Except for small harvesters as defined in RCW 84.33.035, a  
20 person reporting under the tax rate provided in this subsection (12)  
21 must file a complete annual tax performance report with the  
22 department under RCW 82.32.534.

23 (g) Nothing in this subsection (12) may be construed to affect  
24 the taxation of any activity defined as a retail sale in RCW  
25 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW  
26 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

27 (13) Upon every person engaging within this state in inspecting,  
28 testing, labeling, and storing canned salmon owned by another person,  
29 as to such persons, the amount of tax with respect to such activities  
30 is equal to the gross income derived from such activities multiplied  
31 by the rate of 0.484 percent.

32 (14)(a) Upon every person engaging within this state in the  
33 business of printing a newspaper, publishing a newspaper, or both,  
34 the amount of tax on such business is equal to the gross income of  
35 the business multiplied by the rate of 0.35 percent until July 1,  
36 2024, and 0.484 percent thereafter.

37 (b) A person reporting under the tax rate provided in this  
38 subsection (14) must file a complete annual tax performance report  
39 with the department under RCW 82.32.534.

1        NEW SECTION.    **Sec. 3.**    The provisions of RCW 82.32.805 and  
2    82.32.808 do not apply to this act.

3        NEW SECTION.    **Sec. 4.**    This act is necessary for the immediate  
4    preservation of the public peace, health, or safety, or support of  
5    the state government and its existing public institutions, and takes  
6    effect immediately.

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