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HOUSE BILL 2133

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State of Washington

67th Legislature

2022 Regular Session

By Representatives J. Johnson and Stonier

1 AN ACT Relating to providing relief from taxes, penalties,  
2 interest, and fees for eligible restaurants that ceased engaging in  
3 business during the COVID-19 pandemic; adding a new section to  
4 chapter 82.32 RCW; creating a new section; and providing an  
5 expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.32  
8 RCW to read as follows:

9 (1) A person that satisfies the conditions in subsection (2) of  
10 this section may apply to the department for pandemic tax  
11 forgiveness.

12 (2) To receive pandemic tax forgiveness under this section, the  
13 applicant must meet all of the following conditions:

14 (a) The applicant owned and operated a restaurant as of February  
15 29, 2020;

16 (b) The applicant permanently ceased engaging in business between  
17 April 1, 2020, and December 31, 2021, inclusive;

18 (c) The applicant properly registered with the department, as  
19 required under RCW 82.32.030, prior to February 29, 2020;

20 (d) The applicant has filed with the department all required tax  
21 returns for reporting periods through the date the business closed;

1 (e) The applicant has not been convicted of violating any  
2 provision of RCW 82.32.290; and

3 (f) The applicant is in full compliance with all wage payment  
4 requirements. For purposes of this subsection (2)(f), an applicant is  
5 in full compliance with all wage payment requirements if the  
6 applicant has not been the subject of a final and binding citation  
7 and notice of assessment by the department of labor and industries  
8 for a violation of a wage payment requirement, or, having been the  
9 subject of such a citation and notice of assessment, has provided  
10 payment to the employee or employees of all wages that the department  
11 of labor and industries determined that the applicant owed to the  
12 employee or employees, including interest. The department of labor  
13 and industries must assist the department, upon request, in  
14 determining whether an applicant has met this condition.

15 (3) Pandemic tax forgiveness under this section is only available  
16 for liabilities that accrued during the following reporting periods,  
17 and any associated penalties, interest, and fees:

18 (a) For taxpayers required to report taxes to the department on a  
19 monthly or quarterly basis, the reporting periods beginning on or  
20 after April 1, 2020, and ending on or before December 31, 2021; or

21 (b) For taxpayers required to report taxes to the department on  
22 an annual basis, the reporting periods beginning on or after January  
23 1, 2020, and ending on or before December 31, 2021.

24 (4)(a) An application for pandemic tax forgiveness under this  
25 section must be made to the department in a form and manner  
26 determined by the department. The application must include any  
27 information and documentation required by the department. If the  
28 department does not rule on the application within 90 days, the  
29 application is denied.

30 (b) The department shall review the application and determine  
31 eligibility for pandemic tax forgiveness under this section based on  
32 information provided by the applicant and through audit and other  
33 administrative records, including, when it deems it necessary,  
34 verification with the department of labor and industries that the  
35 conditions of subsection (2)(f) of this section have been met.

36 (c) The department shall approve an application if the department  
37 is satisfied that the applicant meets all of the conditions of  
38 subsection (2) of this section. Upon approval by the department of an  
39 application, the department shall grant the applicant's request for  
40 pandemic tax forgiveness, subject to the applicant continuing to meet

1 the conditions in subsection (2)(e) and (f) of this section, with  
2 regard to business activities conducted before the applicant's  
3 restaurant closed permanently.

4 (d)(i) The department shall conduct targeted outreach to persons  
5 who may be eligible for pandemic tax forgiveness, subject to the  
6 appropriation of funds for this specific purpose.

7 (ii) Until the department is able to accept applications for  
8 pandemic tax forgiveness under this section, the department shall  
9 refrain from taking collection action against any person whom the  
10 department considers likely to qualify for relief under this section  
11 or who notifies the department in writing of the person's intent to  
12 apply for relief under this section. The department may resume  
13 collection action against any person beginning 60 days from the date  
14 the department begins accepting applications for pandemic tax  
15 forgiveness, if the department has not received a completed  
16 application for pandemic tax forgiveness from that person. The  
17 department may also resume collection action within 10 days of  
18 denying a person's application for pandemic tax forgiveness.

19 (5) The department shall rescind pandemic tax forgiveness for any  
20 applicant that does not continue to meet the conditions in subsection  
21 (2)(e) and (f) of this section with regard to the person's restaurant  
22 business activities conducted before the restaurant closed  
23 permanently. The department shall assess interest on taxes due under  
24 this subsection in an amount equal to the interest that would have  
25 accrued had the applicant not received pandemic tax forgiveness.

26 (6) This section does not authorize a refund of any taxes,  
27 penalties, interest, or fees paid to the department.

28 (7) For the purposes of this section, the following definitions  
29 apply:

30 (a) "Applicant" means a person applying for pandemic tax  
31 forgiveness under this section, and any person jointly and severally  
32 liable for the applicant's unpaid tax liabilities.

33 (b) "Pandemic tax forgiveness" means the extinguishment of an  
34 applicant's liability to the department for any unpaid taxes,  
35 including collected state and local retail sales taxes, penalties,  
36 interest, and fees, arising directly from the applicant's operation  
37 of a restaurant.

38 (c) "Restaurant" means a business primarily engaged in the retail  
39 sale to the public of prepared food or alcoholic beverages, for

1 immediate but not necessarily on-site consumption. For purposes of  
2 this subsection (7)(c), the following definitions apply:

3 (i) "Alcoholic beverage" and "prepared food" have the same  
4 meaning as in RCW 82.08.0293.

5 (ii) "Primarily" means more than 50 percent as measured by either  
6 gross income of the business as defined in RCW 82.04.080, or costs of  
7 doing business, including all direct and indirect overhead costs.

8 (d) "Wage payment requirement" has the same meaning as in RCW  
9 49.48.082.

10 (8) This section expires January 1, 2026.

11 NEW SECTION. **Sec. 2.** RCW 82.32.805 and 82.32.808 do not apply  
12 to this act.

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