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HOUSE BILL 2393

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State of Washington

65th Legislature

2018 Regular Session

By Representative Vick

Prefiled 01/05/18.

1 AN ACT Relating to lowering the ceiling of the business and  
2 occupation manufacturing tax rate to 0.2904 percent; amending RCW  
3 82.04.240, 82.04.240, 82.04.280, and 82.32.790; creating new  
4 sections; providing an effective date; providing a contingent  
5 effective date; and providing a contingent expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
8 performance statement for the tax preferences contained in this act.  
9 The change in tax base created by this act is intended to be  
10 permanent. This performance statement is only intended to be used for  
11 subsequent evaluation of the tax preference. It is not intended to  
12 create a private right of action by any party or be used to determine  
13 eligibility for preferential tax treatment.

14 (2) The legislature categorizes this tax preference as one  
15 intended to create and retain jobs and reduce structural  
16 inefficiencies as indicated in RCW 82.32.808(2) (c) and (d).

17 (3) It is the legislature's specific public policy objective to  
18 create greater equity in the taxation of manufacturers and encourage  
19 creation of sustainable, well-paying manufacturing jobs across the  
20 state. It is the legislature's intent to lower the manufacturing rate  
21 for those manufacturing industries still taxed at the highest rate,

1 thereby creating greater equity in taxation of manufacturers,  
2 reducing the tax burden on manufacturers, and encouraging creation of  
3 well-paying manufacturing jobs.

4 **Sec. 2.** RCW 82.04.240 and 2004 c 24 s 4 are each amended to read  
5 as follows:

6 (1) Upon every person engaging within this state in business as a  
7 manufacturer, except persons taxable as manufacturers under other  
8 provisions of this chapter; as to such persons the amount of the tax  
9 with respect to such business (~~((shall be))~~) is equal to the value of  
10 the products, including byproducts, manufactured, multiplied by the  
11 rate of (~~((0.484))~~) 0.2904 percent.

12 (2) The measure of the tax is the value of the products,  
13 including byproducts, so manufactured regardless of the place of sale  
14 or the fact that deliveries may be made to points outside the state.

15 **Sec. 3.** RCW 82.04.240 and 2017 3rd sp.s. c 37 s 518 are each  
16 amended to read as follows:

17 (1) Upon every person engaging within this state in business as a  
18 manufacturer, except persons taxable as manufacturers under other  
19 provisions of this chapter; as to such persons the amount of the tax  
20 with respect to such business is equal to the value of the products,  
21 including byproducts, manufactured, multiplied by the rate of  
22 (~~((0.484))~~) 0.2904 percent.

23 (2)(a) Upon every person engaging within this state in the  
24 business of manufacturing semiconductor materials, as to such persons  
25 the amount of tax with respect to such business is, in the case of  
26 manufacturers, equal to the value of the product manufactured, or, in  
27 the case of processors for hire, equal to the gross income of the  
28 business, multiplied by the rate of 0.275 percent. For the purposes  
29 of this subsection "semiconductor materials" means silicon crystals,  
30 silicon ingots, raw polished semiconductor wafers, compound  
31 semiconductors, integrated circuits, and microchips.

32 (b) A person reporting under the tax rate provided in this  
33 subsection (2) must file a complete annual tax performance report  
34 with the department under RCW 82.32.534.

35 (3) The measure of the tax is the value of the products,  
36 including byproducts, so manufactured regardless of the place of sale  
37 or the fact that deliveries may be made to points outside the state.

1 (4) This section expires January 1, 2024, unless the contingency  
2 in RCW 82.32.790(2) occurs.

3 **Sec. 4.** RCW 82.04.280 and 2017 c 323 s 508 are each amended to  
4 read as follows:

5 (1) Upon every person engaging within this state in the business  
6 of: (a) Printing materials other than newspapers, and of publishing  
7 periodicals or magazines; (b) building, repairing or improving any  
8 street, place, road, highway, easement, right-of-way, mass public  
9 transportation terminal or parking facility, bridge, tunnel, or  
10 trestle which is owned by a municipal corporation or political  
11 subdivision of the state or by the United States and which is used or  
12 to be used, primarily for foot or vehicular traffic including mass  
13 transportation vehicles of any kind and including any readjustment,  
14 reconstruction or relocation of the facilities of any public, private  
15 or cooperatively owned utility or railroad in the course of such  
16 building, repairing or improving, the cost of which readjustment,  
17 reconstruction, or relocation, is the responsibility of the public  
18 authority whose street, place, road, highway, easement, right-of-way,  
19 mass public transportation terminal or parking facility, bridge,  
20 tunnel, or trestle is being built, repaired or improved; (c)  
21 extracting for hire (~~or processing for hire~~), except persons  
22 taxable as extractors for hire (~~or processors for hire~~) under  
23 another section of this chapter; (d) operating a cold storage  
24 warehouse or storage warehouse, but not including the rental of cold  
25 storage lockers; (e) representing and performing services for fire or  
26 casualty insurance companies as an independent resident managing  
27 general agent licensed under the provisions of chapter 48.17 RCW; (f)  
28 radio and television broadcasting, excluding network, national and  
29 regional advertising computed as a standard deduction based on the  
30 national average thereof as annually reported by the federal  
31 communications commission, or in lieu thereof by itemization by the  
32 individual broadcasting station, and excluding that portion of  
33 revenue represented by the out-of-state audience computed as a ratio  
34 to the station's total audience as measured by the 100 micro-volt  
35 signal strength and delivery by wire, if any; (g) engaging in  
36 activities (~~which~~) that bring a person within the definition of  
37 consumer contained in RCW 82.04.190(6); as to such persons, the  
38 amount of tax on such business is equal to the gross income of the  
39 business multiplied by the rate of 0.484 percent.

1       (2) Upon every person engaging within this state in the business  
2 of processing for hire, except persons taxable as processors for hire  
3 under another section of this chapter; as to such persons, the amount  
4 of tax on such business is equal to the gross income of the business  
5 multiplied by the rate of 0.2904 percent.

6       (3) For the purposes of this section, the following definitions  
7 apply unless the context clearly requires otherwise.

8       (a) "Cold storage warehouse" means a storage warehouse used to  
9 store fresh and/or frozen perishable fruits or vegetables, meat,  
10 seafood, dairy products, or fowl, or any combination thereof, at a  
11 desired temperature to maintain the quality of the product for  
12 orderly marketing.

13       (b) "Storage warehouse" means a building or structure, or any  
14 part thereof, in which goods, wares, or merchandise are received for  
15 storage for compensation, except field warehouses, fruit warehouses,  
16 fruit packing plants, warehouses licensed under chapter 22.09 RCW,  
17 public garages storing automobiles, railroad freight sheds, docks and  
18 wharves, and "self-storage" or "mini storage" facilities whereby  
19 customers have direct access to individual storage areas by separate  
20 entrance. "Storage warehouse" does not include a building or  
21 structure, or that part of such building or structure, in which an  
22 activity taxable under RCW 82.04.272 is conducted.

23       (c) "Periodical or magazine" means a printed publication, other  
24 than a newspaper, issued regularly at stated intervals at least once  
25 every three months, including any supplement or special edition of  
26 the publication.

27       **Sec. 5.** RCW 82.32.790 and 2017 3rd sp.s. c 37 s 526 are each  
28 amended to read as follows:

29       (1)(a) Section 3, chapter . . ., Laws of 2018 (section 3 of this  
30 act), sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter  
31 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32,  
32 and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125,  
33 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3,  
34 and 5 through 10, chapter 149, Laws of 2003 are contingent upon the  
35 siting and commercial operation of a significant semiconductor  
36 microchip fabrication facility in the state of Washington by January  
37 1, 2024.

38       (b) For the purposes of this section:

1 (i) "Commercial operation" means the same as "commencement of  
2 commercial production" as used in RCW 82.08.965.

3 (ii) "Semiconductor microchip fabrication" means "manufacturing  
4 semiconductor microchips" as defined in RCW 82.04.426.

5 (iii) "Significant" means the combined investment of new  
6 buildings and new machinery and equipment in the buildings, at the  
7 commencement of commercial production, will be at least one billion  
8 dollars.

9 (2) The sections referenced in subsection (1) of this section  
10 take effect the first day of the month in which a contract for the  
11 construction of a significant semiconductor fabrication facility is  
12 signed, if the contract is signed and received by January 1, 2024, as  
13 determined by the director of the department of revenue.

14 (3)(a) The department of revenue must provide notice of the  
15 effective date of the sections referenced in subsection (1) of this  
16 section to affected taxpayers, the legislature, and others as deemed  
17 appropriate by the department.

18 (b) If, after making a determination that a contract has been  
19 signed and the sections referenced in subsection (1) of this section  
20 are effective, the department discovers that commencement of  
21 commercial production did not take place within three years of the  
22 date the contract was signed, the department must make a  
23 determination that chapter 149, Laws of 2003 is no longer effective,  
24 and all taxes that would have been otherwise due are deemed deferred  
25 taxes and are immediately assessed and payable from any person  
26 reporting tax under RCW 82.04.240(2) or claiming an exemption or  
27 credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965,  
28 82.08.970, 82.12.970, or 84.36.645. The department is not authorized  
29 to make a second determination regarding the effective date of the  
30 sections referenced in subsection (1) of this section.

31 (4)(a) This section expires January 1, 2024, if the contingency  
32 in subsection (2) of this section does not occur by January 1, 2024,  
33 as determined by the department.

34 (b) The department must provide written notice of the expiration  
35 date of this section and the sections referenced in subsection (1) of  
36 this section to affected taxpayers, the legislature, and others as  
37 deemed appropriate by the department.

38 NEW SECTION. **Sec. 6.** This act is exempt from the automatic  
39 expiration date provisions of RCW 82.32.805(1)(a).

1        NEW SECTION.    **Sec. 7.**    Section 2 of this act expires on the date  
2    that section 3 of this act takes effect.

3        NEW SECTION.    **Sec. 8.**    Except for section 3 of this act, this act  
4    takes effect January 1, 2019.

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