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HOUSE BILL 2523

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State of Washington                      64th Legislature                      2016 Regular Session

By Representatives Lytton, Nealey, Tarleton, and Stambaugh

1            AN ACT Relating to a leasehold excise tax credit for properties  
2 of market value in excess of ten million dollars; amending RCW  
3 82.29A.120; creating a new section; and providing an expiration date.

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

5            NEW SECTION.    **Sec. 1.**    (1) This section is the tax preference  
6 performance statement for the tax preference provided in section 2 of  
7 this act. The performance statement is only intended to be used for  
8 subsequent evaluation of the tax preference. It is not intended to  
9 create a private right of action by any party or be used to determine  
10 eligibility for preferential tax treatment.

11            (2) The legislature categorizes this tax preference as one  
12 intended to reduce structural inefficiencies in the state tax  
13 structure, as indicated in RCW 82.32.808(2)(d).

14            (3) It is the legislature's specific public policy objective to  
15 reduce the leasehold excise tax for certain taxpayers where the  
16 amount of leasehold excise tax exceeds what would be owed in property  
17 taxes if the property was owned by the taxpayer.

18            (4) To measure the effectiveness of the tax preference provided  
19 in section 2 of this act in achieving the specific public policy  
20 objective described in subsection (3) of this section, the joint  
21 legislative audit and review committee must determine the amount of

1 leasehold excise tax paid by taxpayers claiming the credit under  
2 section 2 of this act in comparison with the amount of leasehold  
3 excise taxes or property taxes paid by a sample of taxpayers  
4 occupying property geographically proximate to taxpayers claiming the  
5 credit under section 2 of this act. The amount of leasehold excise  
6 tax or property tax must be expressed in dollars per thousand dollars  
7 of assessed value and any other way the joint legislative audit and  
8 review committee deems necessary to clearly convey the data.

9 (5)(a) The information provided by taxpayers to the department of  
10 revenue and publicly available property tax data is intended to  
11 provide the informational basis for the evaluation under subsection  
12 (4) of this section.

13 (b) In addition to the data source described under (a) of this  
14 subsection, the joint legislative audit and review committee may use  
15 any other data it deems necessary in performing the evaluation under  
16 subsection (4) of this section.

17 (6) The amount of credit reported by a taxpayer to the department  
18 is not confidential tax information under RCW 82.32.330 and is  
19 disclosable.

20 **Sec. 2.** RCW 82.29A.120 and 2013 c 235 s 3 are each amended to  
21 read as follows:

22 After computation of the taxes imposed pursuant to RCW 82.29A.030  
23 and 82.29A.040, the following credits are allowed in determining the  
24 tax payable:

25 (1) For lessees and sublessees who would qualify for a property  
26 tax exemption under RCW 84.36.381 if the property were privately  
27 owned, the tax otherwise due after this credit (~~shall~~) must be  
28 reduced by a percentage equal to the percentage reduction in property  
29 tax that would result from the property tax exemption under RCW  
30 84.36.381; (~~and~~)

31 (2) A credit of thirty-three percent of the tax otherwise due is  
32 allowed with respect to a product lease; and

33 (3)(a) For a leasehold interest in real property owned by a state  
34 university, a credit is allowed equal to the amount that the tax  
35 under this chapter exceeds the property tax that would apply if the  
36 real property were privately owned by the taxpayer.

37 (b) The credit under this section is available only if the tax  
38 parcel that is subject to the leasehold interest has a market value  
39 in excess of ten million dollars. If the leasehold interest attaches

1 to two or more parcels, the credit is available if at least one of  
2 the tax parcels has a market value in excess of ten million dollars.  
3 In either case, the market value must be determined as of January 1st  
4 of the year prior to the year for which the credit is claimed.

5 (c) For purposes of calculating the credit:

6 (i) If a tax parcel does not have current assessed value in  
7 accordance with RCW 84.40.020, a market value appraisal performed by  
8 a Washington state-certified general real estate appraiser, as  
9 defined in RCW 18.140.010, is sufficient to establish the market  
10 value. If the underlying real property that is the subject of the  
11 leasehold interest consists of a part of one or more tax parcels,  
12 this appraisal must include the market value of the part of the  
13 parcel or parcels to which the leasehold interest applies.

14 (ii) The property tax that would otherwise apply to the real  
15 property that is the subject of the leasehold interest is calculated  
16 using the existing consolidated levy rate for the property's tax code  
17 area.

18 (d) The definitions in this subsection apply throughout this  
19 subsection (3) unless the context clearly requires otherwise.

20 (i) "Real property" has the same meaning as in RCW 84.04.090 and  
21 also includes all improvements upon the land the fee of which is  
22 still vested in the public owner.

23 (ii) "Market value" means the true and fair value of the property  
24 as that term is used in RCW 84.40.030, based on the property's  
25 highest and best use and determined by any reasonable means approved  
26 by the department.

27 (iii) "State university" has the same meaning as "state  
28 universities" as provided in RCW 28B.10.016.

29 NEW SECTION. Sec. 3. (1) This act expires July 1, 2021.

30 (2) The credit provided under section 2 of this act may not be  
31 claimed for tax reporting periods beginning on or after July 1, 2021.

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