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HOUSE BILL 2953

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Hoff and Stokesbary

1 AN ACT Relating to delaying the business and occupation tax  
2 increase on health care services; amending RCW 82.04.290; creating a  
3 new section; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.04.290 and 2020 c 2 s 3 are each amended to read  
6 as follows:

7 (1) Upon every person engaging within this state in the business  
8 of providing qualifying international investment management services,  
9 as to such persons, the amount of tax with respect to such business  
10 is equal to the gross income or gross proceeds of sales of the  
11 business multiplied by a rate of 0.275 percent.

12 (2)(a) Upon every person engaging within this state in any  
13 business activity other than or in addition to an activity taxed  
14 explicitly under another section in this chapter or subsection (1)  
15 (~~((1))~~), (3), or (4) of this section; as to such persons the amount of  
16 tax on account of such activities is equal to the gross income of the  
17 business multiplied by the rate of:

18 (i) 1.75 percent; or

19 (ii) 1.5 percent for:

20 (A) Any person subject to the surcharge imposed under RCW  
21 82.04.299;

1 (B) Any person whose gross income of the business subject to the  
2 tax imposed under this subsection (2), for the immediately preceding  
3 calendar year, was less than one million dollars, unless (I) the  
4 person is affiliated with one or more other persons, and (II) the  
5 aggregate gross income of the business subject to the tax imposed  
6 under this subsection (2) for all affiliated persons was greater than  
7 or equal to one million dollars for the immediately preceding  
8 calendar year; and

9 (C) Hospitals as defined in RCW 70.41.020, including any hospital  
10 that comes within the scope of chapter 71.12 RCW if the hospital is  
11 also licensed under chapter 70.41 RCW. This subsection (2)(a)(ii)(C)  
12 must not be construed as modifying RCW 82.04.260(10).

13 (b) This subsection (2) includes, among others, and without  
14 limiting the scope hereof (whether or not title to materials used in  
15 the performance of such business passes to another by accession,  
16 confusion or other than by outright sale), persons engaged in the  
17 business of rendering any type of service which does not constitute a  
18 "sale at retail" or a "sale at wholesale." The value of advertising,  
19 demonstration, and promotional supplies and materials furnished to an  
20 agent by his or her principal or supplier to be used for  
21 informational, educational, and promotional purposes is not  
22 considered a part of the agent's remuneration or commission and is  
23 not subject to taxation under this section.

24 (c) 14.3 percent of the revenues collected under (a)(i) of this  
25 subsection (2) must be deposited into the workforce education  
26 investment account created in RCW 43.79.195.

27 (d)(i) To aid in the effective administration of this subsection  
28 (2), the department may require a person claiming to be subject to  
29 the 1.5 percent tax rate under (a)(ii)(B) of this subsection (2) to  
30 identify all of the person's affiliates, including their department  
31 tax registration number or unified business identifier number, as may  
32 be applicable, or to certify that the person is not affiliated with  
33 any other person. Requests under this subsection (2)(d)(i) must be in  
34 writing and may be made electronically.

35 (ii) If the department establishes, by clear, cogent, and  
36 convincing evidence, that a person, with intent to evade the  
37 additional taxes due under the 1.75 percent tax rate in (a)(i) of  
38 this subsection (2), failed to provide the department with complete  
39 and accurate information in response to a written request under  
40 (d)(i) of this subsection (2) within thirty days of such request, the

1 person is ineligible for the 1.5 percent tax rate in (a)(ii) of this  
2 subsection (2) for the entire current calendar year and the following  
3 four calendar years. However, the department must waive the  
4 provisions of this subsection (2)(d)(ii) for any tax reporting period  
5 that the person is otherwise eligible for the 1.5 percent tax rate in  
6 (a)(ii) of this subsection (2) if (A) the department has not  
7 previously determined that the person failed to fully comply with  
8 (d)(i) of this subsection (2), and (B) within thirty days of the  
9 notice of additional tax due as a result of the person's failure to  
10 fully comply with (d)(i) of this subsection (2) the department  
11 determines that the person has come into full compliance with (d)(i)  
12 of this subsection (2). This subsection (2)(d) applies only with  
13 respect to persons claiming entitlement to the 1.5 percent tax rate  
14 solely by reason of (a)(ii)(B) of this subsection (2).

15 (e) For the purposes of (a)(ii)(B) of this subsection (2), if a  
16 taxpayer is subject to the reconciliation provisions of RCW  
17 82.04.462(4), and calculates gross income of the business subject to  
18 the tax imposed under this subsection (2) for the immediately  
19 preceding calendar year, or aggregate gross income of the business  
20 subject to the tax imposed under this subsection (2) for the  
21 immediately preceding calendar year for all affiliated persons, based  
22 on incomplete information, the taxpayer must correct the reporting  
23 for the current calendar year when complete information for the  
24 immediately preceding calendar year is available.

25 (f) For purposes of this subsection (2), the definitions in this  
26 subsection (2)(f) apply:

27 (i) "Affiliate" means a person that directly or indirectly,  
28 through one or more intermediaries, controls, is controlled by, or is  
29 under common control with another person; and

30 (ii) "Control" means the possession, directly or indirectly, of  
31 more than eighty percent of the power to direct or cause the  
32 direction of the management and policies of a person, whether through  
33 the ownership of voting shares, by contract, or otherwise.

34 (3)(a) Until July 1, 2040, upon every person engaging within this  
35 state in the business of performing aerospace product development for  
36 others, as to such persons, the amount of tax with respect to such  
37 business is equal to the gross income of the business multiplied by a  
38 rate of 0.9 percent.

1 (b) A person reporting under the tax rate provided in this  
2 subsection (3) must file a complete annual report with the department  
3 under RCW 82.32.534.

4 (c) "Aerospace product development" has the meaning as provided  
5 in RCW 82.04.4461.

6 (4) (a) Until July 1, 2022, upon every person engaging within this  
7 state in the business of providing health care services, as to such  
8 persons, the amount of tax with respect to such business is equal to  
9 the gross income of the business multiplied by a rate of 1.5 percent.

10 (b) For the purposes of this subsection, "health care services"  
11 means:

12 (i) The independent practice of general or specialized medicine  
13 or surgery by businesses comprised of one or more health  
14 practitioners having the degree of doctor of medicine or doctor of  
15 osteopathy. These practitioners operate private or group practices in  
16 their own offices or in the facilities of others, such as hospitals  
17 or health maintenance organization medical centers;

18 (ii) Providing a range of outpatient services, such as family  
19 planning, diagnosis and treatment of mental health disorders and  
20 alcohol and other substance abuse, and other general or specialized  
21 outpatient care by businesses with medical staff;

22 (iii) Medical and diagnostic laboratories, providing analytic or  
23 diagnostic services, including body fluid analysis and diagnostic  
24 imaging, generally to the medical profession or to the patient on  
25 referral from a health practitioner;

26 (iv) The independent practice of general or specialized dentistry  
27 or dental surgery by businesses comprised of one or more health  
28 practitioners having the degree of doctor of dental medicine, doctor  
29 of dental surgery, or doctor of dental science. These practitioners  
30 operate private or group practices in their own offices or in the  
31 facilities of others, such as hospitals or health maintenance  
32 organization medical centers. They may provide either comprehensive  
33 preventive, cosmetic, or emergency care, or specialize in a single  
34 field of dentistry;

35 (v) The independent practice of general or specialized medicine  
36 or surgery, or general or specialized dentistry or dental surgery, by  
37 businesses comprised of one or more independent health practitioners,  
38 other than physicians and dentists; and

39 (vi) Providing ambulatory health care services.

1        NEW SECTION.    **Sec. 2.**    This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of  
3 the state government and its existing public institutions, and takes  
4 effect April 1, 2020.

5        NEW SECTION.    **Sec. 3.**    The provisions of RCW 82.32.805 and  
6 82.32.808 do not apply to this act.

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