
SENATE BILL 5387

State of Washington

67th Legislature

2021 Regular Session

By Senator Nguyen

1 AN ACT Relating to the working families tax exemption; amending
2 RCW 82.08.0206; creating new sections; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** (1) Many Washington families do not earn
5 enough annually to keep pace with increasing health care, child care,
6 housing, and other essential expenses.

7 (2) Amidst rising cost of living across the state, the regressive
8 nature of Washington's tax code puts an additional strain on
9 households already struggling to meet their basic needs. Washington's
10 tax system is the most upside down and regressive in the nation,
11 allowing those who earn the most to pay the least percentage of their
12 income in taxes. As a percentage of household income, low-income
13 Washingtonians, who are disproportionately Black, American Indian and
14 Alaska Native, Latinx, Native Hawaiian and Pacific Islander, and
15 multiracial Washingtonians, pay six times more in taxes than our
16 wealthiest residents.

17 (3) Eligibility for the working families tax exemption is based
18 on eligibility for the federal earned income tax credit, a refundable
19 tax credit for working individuals and families whose earnings are
20 below an income threshold. Since its establishment in 1975, the
21 earned income tax credit has increased family income, reduced child

1 poverty, and improved health, educational, and career outcomes for
2 children in low-income families. Taxpayers filing with an individual
3 tax identification number and their families, however, are excluded
4 from receiving the federal credit and its corollary benefits to
5 health and well-being, despite paying local, state, and federal
6 taxes.

7 (4) Since its establishment in 1975, the earned income tax credit
8 has also had a positive impact on local businesses because it puts
9 more money in the hands of low-income working people who spend the
10 money on immediate needs, such as groceries, transportation, rent,
11 and health care. The credit has been shown to have a multiplier
12 effect to support local businesses, generating an estimated \$1.50 to
13 \$2.00 in local economic activity for every dollar received by
14 beneficiaries.

15 (5) Therefore, it is the public policy objective of the
16 legislature to stimulate local economic activity, advance racial
17 equity, and promote economic stability and well-being for lower-
18 income working people, including individual tax identification number
19 filers, by updating and simplifying the structure of the working
20 families tax exemption.

21 **Sec. 2.** RCW 82.08.0206 and 2008 c 325 s 2 are each amended to
22 read as follows:

23 (1) A working families' tax exemption, in the form of a
24 remittance of tax due under this chapter and chapter 82.12 RCW, is
25 provided to eligible low-income persons for sales taxes paid under
26 this chapter after January 1, ~~((2008))~~ 2022.

27 (2) For purposes of the exemption in this section, ~~((an eligible
28 low-income person is))~~ the following definitions apply:

29 (a) ~~((An))~~ (i) Except as provided in (a)(ii) of this subsection,
30 "eligible low-income person" means an individual ~~((, or an individual
31 and that individual's spouse if they file a federal joint income tax
32 return;~~

33 ~~(b) [An individual who] Who is))~~ who:

34 (A) Is eligible for ~~((, and is granted,))~~ the credit provided in
35 Title 26 U.S.C. Sec. 32; and

36 ~~((c) [An individual who] Who properly))~~ (B) Properly files a
37 federal income tax return as a Washington resident, and has been a
38 resident of the state of Washington more than one hundred eighty days
39 of the year for which the exemption is claimed.

1 (ii) "Eligible low-income person" also means an individual who:

2 (A) Meets the requirements provided in (a)(i)(B) of this
3 subsection; and

4 (B) Would otherwise qualify for the credit provided in Title 26
5 U.S.C. Sec. 32 except for the fact that the individual filed a
6 federal tax return in the prior year using a valid individual
7 taxpayer identification number in lieu of a social security number,
8 or the individual has a spouse or dependent without a social security
9 number.

10 (b) "Income" means earned income as defined by Title 26 U.S.C.
11 Sec. 32.

12 (c) "Individual" means an individual and that individual's spouse
13 if they file a federal joint income tax return.

14 (d) "Qualifying child" means a qualifying child as defined by
15 Title 26 U.S.C. Sec. 32.

16 ~~(3) ((For remittances made in 2009 and 2010, the working~~
17 ~~families' tax exemption for the prior year is a retail sales tax~~
18 ~~exemption equal to the greater of five percent of the credit granted~~
19 ~~as a result of Title 26 U.S.C. Sec. 32 in the most recent year for~~
20 ~~which data is available or twenty-five dollars. For 2011)) (a) Except~~
21 ~~as provided in (b) and (c) of this subsection, for 2023 and~~
22 ~~thereafter, the working families' tax ((exemption)) remittance amount~~
23 ~~for the prior year is ((equal to the greater of ten percent of the~~
24 ~~credit granted as a result of Title 26 U.S.C. Sec. 32 in the most~~
25 ~~recent year for which data is available or fifty dollars)):~~

26 (i) \$500 for eligible persons with no qualifying children;

27 (ii) \$650 for eligible persons with one qualifying child;

28 (iii) \$800 for eligible persons with two qualifying children; or

29 (iv) \$950 for eligible persons with three or more qualifying
30 children.

31 (b) The remittance amounts provided in (a) of this subsection
32 will be reduced, rounded to the nearest dollar, as follows:

33 (i) For eligible persons with no qualifying children, beginning
34 at \$2,500 of income below the federal phase-out income for the prior
35 federal tax year, by 18 percent per additional dollar of income until
36 the minimum credit amount as specified in (d) of this subsection is
37 reached.

38 (ii) For eligible persons with one qualifying child, beginning at
39 \$5,000 of income below the federal phase-out income for the prior
40 federal tax year, by 12 percent per additional dollar of income until

1 the minimum credit amount as specified in (d) of this subsection is
2 reached.

3 (iii) For eligible persons with two qualifying children,
4 beginning at \$5,000 of income below the federal phase-out income for
5 the prior federal tax year, by 15 percent per additional dollar of
6 income until the minimum credit amount as specified in (d) of this
7 subsection is reached.

8 (iv) For eligible persons with three or more qualifying children,
9 beginning at \$5,000 of income below the federal phase-out income for
10 the prior federal tax year, by 18 percent per additional dollar of
11 income until the minimum credit amount as specified in (d) of this
12 subsection is reached.

13 (c) If the remittance for an eligible person as calculated in
14 this section is greater than one cent, but less than \$50, the
15 remittance amount is \$50.

16 (d) The remittance amounts in this section shall be adjusted for
17 inflation every year beginning January 1, 2024, based upon changes in
18 the consumer price index during the previous calendar year.

19 (e) For purposes of this section, "consumer price index" means,
20 for any calendar year, that year's average consumer price index for
21 the Seattle, Washington area for urban wage earners and clerical
22 workers, all items, compiled by the bureau of labor statistics,
23 United States department of labor.

24 ~~(4) ((For any fiscal period, the working families' tax exemption~~
25 ~~authorized under this section shall be approved by the legislature in~~
26 ~~the state omnibus appropriations act before persons may claim the~~
27 ~~exemption during the fiscal period.~~

28 ~~(5))~~ The working families' tax exemption shall be administered
29 as provided in this subsection.

30 (a) The remittance paid under this section will be paid to
31 eligible filers who apply pursuant to this subsection.

32 (i) Application must be made to the department in a form and
33 manner determined by the department. If the application process is
34 initially done electronically, the department must provide a paper
35 application upon request. The application must include any
36 information and documentation as required by the department.

37 (ii) Application for the remittance under this section must be
38 made in the year following the year for which the federal return was
39 filed, but in no case may any remittance be provided for any period

1 before January 1, 2022. The department must use the eligible person's
2 most recent federal tax filing to process the remittance.

3 (iii) A person may not claim an exemption on behalf of a deceased
4 individual. No individual may claim an exemption under this section
5 for any year in a disallowance period under Title 26 U.S.C. Sec.
6 32(k)(1) or for any year for which the individual is ineligible to
7 claim the credit in Title 26 U.S.C. Sec. 32 by reason of Title 26
8 U.S.C. Sec. 32(k)(2).

9 (b) The department shall protect the privacy and confidentiality
10 of personal data of remittance recipients in accordance with chapter
11 82.32 RCW.

12 (c) The department shall, in conjunction with other agencies or
13 organizations, design and implement a public information campaign to
14 inform potentially eligible persons of the existence of, and
15 requirements for, this section.

16 (d) The department must work with the internal revenue service to
17 administer the exemption on an automatic basis as soon as
18 practicable.

19 (5) Receipt of the remittance under this section may not be used
20 in eligibility determinations for any state income support programs
21 or in making public charge determinations.

22 (6) The department may adopt rules necessary to implement this
23 section. This includes establishing a date by which applications will
24 be accepted, with the aim of accepting applications as soon as
25 possible. The department may gather necessary data through audit and
26 other administrative records, including verification through internal
27 revenue service data.

28 (7) The department must review the application and determine
29 eligibility for the working families' tax exemption based on
30 information provided by the applicant and through audit and other
31 administrative records, including, when it deems it necessary,
32 verification through internal revenue service data.

33 (8) If, upon review of internal revenue service data or other
34 information obtained by the department, it appears that an individual
35 received a remittance that the individual was not entitled to, or
36 received a larger remittance than the individual was entitled to, the
37 department may assess against the individual the overpaid amount. The
38 department may also assess such overpaid amount against the
39 individual's spouse if the remittance in question was based on both

1 spouses filing a joint federal income tax return for the year for
2 which the remittance was claimed.

3 (a) Interest as provided under RCW 82.32.050 applies to
4 assessments authorized under this subsection (8). Except as otherwise
5 provided in this subsection, penalties may not be assessed on amounts
6 due under this subsection.

7 (b) If an amount due under this subsection is not paid in full by
8 the date due, or the department issues a warrant for the collection
9 of amounts due under this subsection, the department may assess the
10 applicable penalties under RCW 82.32.090.

11 (c) If the department finds by clear, cogent, and convincing
12 evidence that an individual knowingly submitted, caused to be
13 submitted, or consented to the submission of, a fraudulent claim for
14 remittance under this section, the department must assess a penalty
15 of 50 percent of the overpaid amount. This penalty is in addition to
16 any other applicable penalties assessed in accordance with (b) of
17 this subsection (8).

18 (9) If, within the period allowed for refunds under RCW
19 82.32.060, the department finds that an individual received a lesser
20 remittance than the individual was entitled to, the department must
21 remit the additional amount due under this section to the individual.

22 (10) Interest does not apply to remittances provided under this
23 act.

24 (11) For any fiscal period, the working families' tax exemption
25 authorized under this section shall be approved by the legislature in
26 the state omnibus appropriations act before persons may claim the
27 exemption during the fiscal period.

28 ~~((a) An eligible low-income person claiming an exemption under~~
29 ~~this section must pay the tax imposed under chapters 82.08, 82.12,~~
30 ~~and 82.14 RCW in the year for which the exemption is claimed. The~~
31 ~~eligible low-income person may then apply to the department for the~~
32 ~~remittance as calculated under subsection (3) of this section.~~

33 ~~(b) Application shall be made to the department in a form and~~
34 ~~manner determined by the department, but the department must provide~~
35 ~~alternative filing methods for applicants who do not have access to~~
36 ~~electronic filing.~~

37 ~~(c) Application for the exemption remittance under this section~~
38 ~~must be made in the year following the year for which the federal~~
39 ~~return was filed, but in no case may any remittance be provided for~~
40 ~~any period before January 1, 2008. The department may use the best~~

1 available data to process the exemption remittance. The department
2 shall begin accepting applications October 1, 2009.

3 ~~(d) The department shall review the application and determine
4 eligibility for the working families' tax exemption based on
5 information provided by the applicant and through audit and other
6 administrative records, including, when it deems it necessary,
7 verification through internal revenue service data.~~

8 ~~(e) The department shall remit the exempted amounts to eligible
9 low-income persons who submitted applications. Remittances may be
10 made by electronic funds transfer or other means.~~

11 ~~(f) The department may, in conjunction with other agencies or
12 organizations, design and implement a public information campaign to
13 inform potentially eligible persons of the existence of and
14 requirements for this exemption.~~

15 ~~(g) The department may contact persons who appear to be eligible
16 low-income persons as a result of information received from the
17 internal revenue service under such conditions and requirements as
18 the internal revenue service may by law require.~~

19 ~~(6) The provisions of chapter 82.32 RCW apply to the exemption in
20 this section.~~

21 ~~(7) The department may adopt rules necessary to implement this
22 section.~~

23 ~~(8) The department shall limit its costs for the exemption
24 program to the initial start-up costs to implement the program. The
25 state omnibus appropriations act shall specify funding to be used for
26 the ongoing administrative costs of the program. These ongoing
27 administrative costs include, but are not limited to, costs for: The
28 processing of internet and mail applications, verification of
29 application claims, compliance and collections, additional full-time
30 employees at the department's call center, processing warrants,
31 updating printed materials and web information, media advertising,
32 and support and maintenance of computer systems.)~~

33 NEW SECTION. **Sec. 3.** The provisions of RCW 82.32.805 and
34 82.32.808 do not apply to this act.

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