
SENATE BILL 5486

State of Washington**68th Legislature****2023 Regular Session**

By Senators Frame, Nguyen, Robinson, Wellman, Hunt, Dhingra, Saldaña, Van De Wege, C. Wilson, Kuderer, Trudeau, Keiser, Stanford, Conway, Lovelett, Lovick, Hasegawa, Valdez, and Cleveland

1 AN ACT Relating to investing in Washington families and creating
2 a more fair tax system by enacting a narrowly tailored property tax
3 on extreme wealth derived from the ownership of stocks, bonds, and
4 other financial intangible property; amending RCW 82.32.160,
5 43.135.034, and 82.32.655; adding a new title to the Revised Code of
6 Washington to be codified as Title 84A RCW; creating new sections;
7 and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** (1) Washington has long led the way with
10 innovative and bold ideas that have changed the world. Many of the
11 world's greatest innovators and artists, engineers and entrepreneurs,
12 and scientists and social activists have called Washington home. But
13 Washington's status as an economic and social leader is threatened by
14 growing wealth inequality and a tax structure that perpetuates it.
15 Asking the state's poorest residents to pay six times more in taxes,
16 as a share of their income, than the state's highest income
17 households, including some of the wealthiest individuals in the
18 world, is unconscionable.

19 (2) The legislature recognizes Washington's tax system is the
20 most upside down and regressive in the nation. As a percentage of
21 household income, low-income families pay nearly 18 percent in taxes,

1 middle-income families pay 11 percent, and the state's highest income
2 households pay three percent or less. Washington's overreliance on
3 low-income and middle-income families to pay for education - our
4 state's paramount duty - as well as housing, supports for our
5 neighbors with disabilities, and other vital government programs and
6 functions is simply not sustainable. The legislature finds that
7 building a tax system that is fair, balanced, and works for everyone
8 is imperative for the long-term economic growth of our state.
9 Washington's wealthiest residents can and should share more equitably
10 in the responsibility of funding these key community programs
11 alongside their neighbors.

12 (3) Washington's upside down and regressive tax code is
13 particularly egregious when you consider the size of the wealth gap
14 in the United States, and the number of Washington state residents
15 whose extraordinary wealth contributes to this gap being so
16 significant. According to the "2022 Forbes 400 List of Richest
17 Americans," eight of the country's wealthiest people reside in
18 Washington state, and their individual wealth ranges from
19 \$3,300,000,000 to \$151,000,000,000. By comparison, a 2020 report from
20 the board of governors of the federal reserve system reports that
21 median household wealth, or net worth, in the United States is
22 \$121,700.

23 (4) The legislature further finds that homeownership has long
24 been a key tool of wealth building for the middle class in the United
25 States and Washington, and these assets - real property - have long
26 been subject to a property tax on ownership. Furthermore, tangible
27 assets of businesses - personal property - have long been subject to
28 a property tax on ownership. Therefore, the legislature finds that in
29 order to modernize Washington's tax code and make it more fair and
30 balanced, a property tax on ownership should be extended to a class
31 of assets - financial intangible property - that is exempted from the
32 Washington tax code today.

33 (5) Therefore, the legislature intends to create the Washington
34 state wealth tax by narrowing the existing tax preference that
35 exempts all intangible property and assess a modest one percent tax
36 only on financial intangible assets, such as stocks and bonds,
37 publicly traded options, and futures contracts. This property tax
38 will be narrowly tailored to tax extreme wealth and avoid taxing
39 ordinary household wealth by exempting the first \$250,000,000 of
40 assessed value from the Washington state wealth tax.

1 (6) Finally, to ensure Washington's wealthiest residents are
2 sharing more equitably in the responsibility of funding key community
3 programs, including education, housing, and supports for Washington
4 residents with disabilities, including our students entitled to
5 receive special education services, revenues generated from the
6 Washington state wealth tax will be equally divided among the
7 education legacy trust account, the Washington housing trust fund, a
8 new disabilities care trust account, as well as a new taxpayer
9 justice account that is intended to offer credits against taxes paid
10 disproportionately by low-income and middle-income families. Funding
11 these key community programs will ensure Washington state continues
12 its role as a global leader that can attract, retain, and grow the
13 most innovative, creative, and talented residents in the world, and
14 that our state is a place where every resident has a fair chance to
15 not only survive, but thrive.

16 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
17 section apply throughout this chapter unless the context clearly
18 requires otherwise.

19 (1) "Artificial person" means a corporation; limited liability
20 company; limited liability partnership, limited partnership, joint
21 venture, or any other kind of partnership; association; business
22 trust or any other trust; estate; association; or any other
23 organization.

24 (2) "Cash and cash equivalents" means currency and short-term,
25 highly liquid investments that are readily convertible to known
26 amounts of cash. "Cash and cash equivalents" includes money on hand,
27 certificates of deposit, checking account deposits, savings account
28 deposits, money market funds, cryptocurrency, and similar assets.

29 (3) "Day" means a calendar day or any portion of a calendar day.

30 (4) "Department" means the department of revenue.

31 (5) "Domicile" means:

32 (a) The same as in RCW 72.36.035, for purposes of a natural
33 person; and

34 (b) For purposes of an artificial person:

35 (i) For a business, the principal place from which the business
36 is directed or managed; and

37 (ii) For artificial persons other than businesses, the place
38 where the entity was organized.

1 (6) "Fair market value" means the amount of money that a willing
2 buyer would pay to a willing seller for property in an arms-length
3 transaction if both parties were fully informed about all advantages
4 and disadvantages of the property and neither party is acting under a
5 compulsion to enter into the transaction.

6 (7) "Financial intangible assets" means the following assets:

7 (a) Cash and cash equivalents;

8 (b) Financial investments such as annuities, bonds, treasury
9 bills, mutual funds or index funds, stocks, publicly traded options,
10 futures contracts, commodities contracts, put and call options,
11 certificates of interest in gold and other precious metals or gems,
12 and other similar investments;

13 (c) Units of ownership in a subchapter K entity;

14 (d) Units of ownership and stock in a subchapter S entity; and

15 (e) Similar intangible assets.

16 (8) "Intangible assets" means both financial intangible assets
17 and nonfinancial intangible assets.

18 (9) "Nonfinancial intangible assets" means all intangible
19 property other than financial intangible assets, such as trademarks,
20 trade names, brand names, patents, copyrights, trade secrets,
21 licenses, permits, core deposits of financial institutions,
22 noncompete agreements, customer lists, patient lists, favorable
23 contracts, favorable financing agreements, reputation, exceptional
24 management, prestige, good name, integrity of a business, private
25 nongovernmental personal service contracts, and private
26 nongovernmental athletic or sports franchises or agreements.

27 (10) "Person" means any natural person or artificial person.

28 (11) "Subchapter K entity" means a partnership, including a
29 limited partnership, limited liability partnership, limited liability
30 limited partnership, limited liability company, joint venture, or any
31 other entity subject to subchapter K of the internal revenue code, 26
32 U.S.C. Secs. 701 through 761, including a single member limited
33 liability company.

34 (12) "Subchapter S entity" means any entity subject to the
35 internal revenue code, 26 U.S.C. Secs. 1361 through 1379.

36 (13) "Tax year" means the calendar year immediately preceding the
37 year in which the tax under this chapter is due and payable to the
38 department.

1 (14) "Taxable worldwide wealth" means a person's worldwide
2 wealth, excluding the fair market value of any intangible property
3 exempt from the tax imposed under this chapter.

4 (15) "Washington resident" or "resident" means the following:

5 (a) Any artificial person domiciled in this state at any time
6 during the tax year; or

7 (b) A natural person:

8 (i) Who is domiciled in this state at any time during the tax
9 year; or

10 (ii) Who is not domiciled in this state during the tax year, but
11 maintained a place of abode and was physically present in this state
12 for more than 183 days during the tax year.

13 (16)(a) "Worldwide wealth" means the fair market value of all
14 intangible assets, or portion thereof, owned or controlled by a
15 resident.

16 (b) For purposes of this subsection:

17 (i) "Control" means a person possesses, directly or indirectly,
18 alone or with one or more close associates, more than 50 percent of
19 the power to sell or otherwise dispose of intangible assets.

20 (ii) "Close associates" means natural persons who are in close
21 association with another natural person by reason of a family,
22 marital, personal, or business relationship.

23 (iii) "Own" includes both legal and beneficial ownership.

24 NEW SECTION. **Sec. 3.** TAX IMPOSED. (1) Beginning January 1,
25 2025, for taxes due in 2026, a wealth tax is imposed on each
26 Washington resident. The wealth tax equals one percent multiplied by
27 a resident's taxable worldwide wealth.

28 (2) Except as provided in subsection (3) of this section, the tax
29 imposed under this section applies to a resident's taxable worldwide
30 wealth as of December 31st of the tax year.

31 (3) In the case of any individual who dies during a tax year and
32 who is not married or in a state registered domestic partnership on
33 the date of such individual's death:

34 (a) The tax imposed under this section applies to the
35 individual's taxable worldwide wealth as of the date of the
36 individual's death; and

37 (b) The amount of the tax otherwise due under this section must
38 be reduced by an amount determined by:

1 (i) Dividing the amount of tax otherwise due for the entire tax
2 year by the total number of days in the tax year; and

3 (ii) Multiplying the amount determined in (b)(i) of this
4 subsection (3) by the number of days remaining in the tax year after
5 the date of the individual's death.

6 (4) The tax imposed in this section does not apply to a resident
7 based on that person's status as a trustee of a trust, unless that
8 person is also a beneficiary of the trust or holds a general power of
9 appointment over the assets of the trust.

10 (5) (a) If an individual is treated as the owner of any portion of
11 a trust that qualifies as a grantor trust for federal income tax
12 purposes, that individual must be treated as the owner of that
13 property for purposes of the tax imposed in this section to the
14 extent such property includes intangible assets.

15 (b) A grantor of a trust that does not qualify as a grantor trust
16 for federal income tax purposes must nevertheless be treated as the
17 owner of the intangible assets of the trust for purposes of the tax
18 imposed in this section if the grantor's transfer of assets to the
19 trust is treated as an incomplete gift under Title 26 U.S.C. Sec.
20 2511 of the internal revenue code and its accompanying regulations.

21 (6) Intangible assets transferred after the effective date of
22 this section by a resident to an individual who is a member of the
23 family of the resident and has not attained the age of 18 must be
24 treated as property of the resident for any calendar year before the
25 year in which such individual attains the age of 18. For purposes of
26 this subsection, "member of the family" has the same meaning as in
27 RCW 83.100.046.

28 (7) All moneys collected from the wealth tax must be deposited
29 pursuant to section 12 of this act.

30 NEW SECTION. **Sec. 4.** WHEN TAXES AND TAX RETURNS ARE DUE. (1) (a)
31 Except as otherwise provided in this section or RCW 82.32.080, each
32 resident owing tax under this chapter must file, on forms prescribed
33 by the department, a return with the department on or before April
34 15th each year reporting that person's taxable worldwide wealth for
35 the immediate preceding calendar year, and such other information the
36 department determines necessary to administer the tax imposed under
37 this chapter.

38 (b) (i) Except as provided in (b) (ii) of this subsection (1),
39 returns and all supporting documents must be filed electronically

1 using the department's online tax filing service or other method of
2 electronic reporting as the department may authorize.

3 (ii) The department may waive the electronic filing requirement
4 in this subsection for good cause as provided in RCW 82.32.080.

5 (2)(a) Except as otherwise provided in this subsection (2),
6 spouses and state registered domestic partners must jointly file
7 returns required under this section.

8 (b)(i) A spouse or state registered domestic partner may petition
9 the department, on a form and in a format as required by the
10 department, for permission to file a separate return. The department
11 must grant the petition only if it finds that good cause exists for
12 allowing the petitioner to file a separate return.

13 (ii) For purposes of this subsection (2)(b), "good cause" means:

14 (A) The petitioner reasonably believes that the nonpetitioning
15 spouse or state registered domestic partner will not cooperate in the
16 filing of a complete and accurate joint return; or

17 (B) Any other circumstance that, in the department's judgment,
18 renders the filing of a joint return manifestly unreasonable.

19 (3) Each resident required to file a return under this section
20 must, without assessment, notice, or demand, pay any tax due under
21 this chapter to the department on or before the due date of the
22 return, regardless of any filing extension granted by the department.
23 The tax must be paid by electronic funds transfer as defined in RCW
24 82.32.085 or by other forms of electronic payment as may be
25 authorized by the department. The department may waive the electronic
26 payment requirement for good cause as provided in RCW 82.32.080. If
27 any tax due under this chapter is not paid by the due date, interest
28 and penalties as provided in chapter 82.32 RCW apply to the
29 deficiency.

30 (4)(a) If any return due under subsection (1) of this section is
31 not filed with the department by the due date or any extension
32 granted by the department, the department must assess a penalty in
33 the amount of five percent of the tax due for the tax year covered by
34 the return for each month or portion of a month that the return
35 remains unfiled. The total penalty assessed under this subsection may
36 not exceed 25 percent of the tax due for the tax year covered by the
37 delinquent return. The penalty under this subsection is in addition
38 to any penalties assessed for the late payment of any tax due on the
39 return.

1 (b) The department must waive the penalty imposed under this
2 subsection if:

3 (i) The department is persuaded that the person's failure to file
4 the return by the due date was due to circumstances beyond the
5 person's control; or

6 (ii) The person has not been delinquent in filing any return due
7 under this section during the preceding five calendar years.

8 NEW SECTION. **Sec. 5.** ADMINISTRATIVE PROVISIONS. (1) Except as
9 otherwise provided by law and to the extent not inconsistent with the
10 provisions of this chapter, chapter 82.32 RCW applies to the
11 administration of taxes imposed under this chapter.

12 (2) The department may adopt any rules it considers useful in
13 administering the tax under this chapter.

14 NEW SECTION. **Sec. 6.** EXEMPTIONS. Exemptions from the tax
15 imposed under section 3 of this act are provided for:

16 (1) Up to \$250,000,000 of a taxpayer's financial intangible
17 assets. For purposes of this exemption, both spouses or state
18 registered domestic partners are considered to be one taxpayer. If
19 the department authorizes the filing of separate returns for a tax
20 year, each spouse or state registered domestic partner is entitled to
21 claim one-half of the exemption provided under this subsection (1)
22 for that tax year;

23 (2) Nonfinancial intangible assets;

24 (3) Worldwide wealth of artificial persons. However, the
25 exemption provided in this subsection (3) does not affect the
26 computation of a natural person's worldwide wealth;

27 (4) Any obligations or evidences of debt of the United States and
28 obligations of United States government agencies and corporations
29 established by acts of the congress of the United States to the
30 extent required by federal law to be exempt from taxation by the
31 states;

32 (5) Any obligations or evidences of debt of the state of
33 Washington and its agencies, instrumentalities, political
34 subdivisions, and municipal corporations, which include municipal
35 bonds;

36 (6) Any stock of the federal reserve bank, the government
37 national mortgage association, the federal national mortgage

1 association, and other corporations and associations established by
2 acts of the congress of the United States; and

3 (7) Any property subject to ad valorem taxation under RCW
4 84.36.005.

5 NEW SECTION. **Sec. 7.** CREDIT FOR SIMILAR WEALTH TAX PAID TO
6 ANOTHER STATE. (1) Except as provided in subsection (2) of this
7 section, a person subject to tax under this chapter is allowed a
8 credit against the tax otherwise due under this chapter equal to the
9 amount of any similar wealth tax legally imposed on, and paid by, the
10 person to another state for the same tax year on financial intangible
11 assets subject to tax under this chapter. Credit under this section
12 may not exceed the tax otherwise due under this chapter and may not
13 be carried forward or backward to another tax year. Unused credit is
14 not refundable.

15 (2) No credit may be claimed under this section if:

16 (a) The other state does not provide a substantially similar
17 credit against its wealth tax; or

18 (b) The taxpayer was domiciled in Washington state for a greater
19 amount of time than in the other state during the tax year.

20 (3) For purposes of this section, a similar wealth tax does not
21 include an estate tax, inheritance tax, net income tax, gross
22 receipts tax, other business activity tax, or similar tax. A tax on
23 the value of property may be considered to be a similar wealth tax
24 even though taxpayers are allowed a deduction for their liabilities
25 in computing the tax.

26 (4) For purposes of this section, "state" has the same meaning as
27 in RCW 82.04.462.

28 NEW SECTION. **Sec. 8.** INNOCENT SPOUSE RELIEF. (1) An individual
29 who is required to jointly file a return under this chapter may
30 petition the department for relief from joint and several liability
31 for an assessment of taxes due under this chapter, including
32 penalties and interest. Relief under this section is available only
33 to the extent that the individual establishes by clear, cogent, and
34 convincing evidence that he or she is entitled to relief under this
35 section. The petition must be made on a form and in a format
36 prescribed by the department.

1 (2) An individual is entitled to relief from joint and several
2 liability under this section only if he or she establishes that all
3 of the following criteria have been met:

4 (a) The individual jointly filed a return under this chapter for
5 a taxable year;

6 (b) There is an understatement of tax due on the jointly filed
7 return that is attributable to erroneous reporting of assets by the
8 nonpetitioning current or former spouse or state registered domestic
9 partner;

10 (c) The individual seeking relief establishes that he or she did
11 not know, and had no reason to know, that there was such an
12 understatement; and

13 (d) Taking into account all the facts and circumstances, it is
14 manifestly inequitable to hold the individual seeking relief liable
15 for the deficiency in tax for such taxable year attributable to such
16 understatement.

17 (3) Any determination under this section must be made without
18 regard to community property laws.

19 (4) If an individual seeking relief under this section
20 establishes that he or she did not know, and had no reason to know,
21 the extent of such understatement, then such individual must be
22 relieved of liability for tax not properly paid, including penalties
23 and interest, for such taxable year to the extent that such liability
24 is attributable to the portion of such understatement of which such
25 individual did not know and had no reason to know.

26 (5) An individual seeking relief under this section has the
27 burden of proof with respect to establishing the portion of any
28 deficiency allocable to such individual and the portion solely
29 allocable to the individual's current or former spouse or state
30 registered domestic partner.

31 (6)(a) Notwithstanding any other provision of this section, an
32 individual seeking relief under this section may not seek relief for
33 taxes on wealth derived from disqualified assets. For the purposes of
34 this subsection, "disqualified asset" means any asset or right to an
35 asset transferred between spouses or state registered domestic
36 partners required to jointly file a return under this chapter if the
37 principal purpose of the transfer was the avoidance of tax.

38 (b) Except as provided in (c) of this subsection (6), any
39 transfer of assets between two spouses or state registered domestic
40 partners, required to jointly file a return under this chapter, that

1 is made within 12 months prior to December 31st of the tax year for
2 which an individual is seeking relief under this section is presumed
3 to be made with the principle purpose of avoidance of tax.

4 (c) The presumption under (b) of this subsection (6) does not
5 apply to any transfer pursuant to a decree of divorce, dissolution of
6 a domestic partnership, separate maintenance action, or a written
7 instrument incident to such action, or to any transfer that an
8 individual establishes did not have tax avoidance as its principal
9 purpose.

10 (7) If relief is granted under this section, any asset giving
11 rise to a deficiency on a jointly filed return shall be allocated to
12 the individuals filing the return in the same manner as it would have
13 been allocated if the individuals had filed separate returns for the
14 taxable year. No relief granted under this section may reduce the
15 combined tax liability of individuals required to jointly file a
16 return under this chapter in any given tax year.

17 (8) Any relief granted under this section may not result in an
18 increase in the exemption amount under section 6(1) of this act.
19 Nothing in this section shall be construed to permit individuals
20 required to jointly file a return under this chapter to claim a
21 combined exemption under section 6(1) of this act exceeding the limit
22 established in section 6(1) of this act.

23 (9) An individual seeking relief under this section must file a
24 petition with the department no later than two years after the date
25 of the department's notification of the deficiency that is the
26 subject of the petition.

27 (10) The department may by rule provide a method or methods for
28 allocating assets between individuals required to jointly file
29 returns under this chapter in cases where one of the individuals is
30 granted relief under this section. The department may also by rule
31 provide substantiation requirements for an individual to establish
32 his or her eligibility for relief under this section.

33 (11) An individual seeking relief under this section may petition
34 the department for a review of a denial of such relief pursuant to
35 RCW 82.32.160.

36 **Sec. 9.** RCW 82.32.160 and 2007 c 111 s 110 are each amended to
37 read as follows:

38 (1) Any person having been issued a notice of additional taxes,
39 delinquent taxes, interest, or penalties assessed by the department,

1 may within thirty days after the issuance of the original notice of
2 the amount thereof or within the period covered by any extension of
3 the due date thereof granted by the department petition the
4 department in writing for a correction of the amount of the
5 assessment, and a conference for examination and review of the
6 assessment. The petition shall set forth the reasons why the
7 correction should be granted and the amount of the tax, interest, or
8 penalties, which the petitioner believes to be due. The department
9 shall promptly consider the petition and may grant or deny it. If
10 denied, the petitioner shall be notified by mail, or electronically
11 as provided in RCW 82.32.135, thereof forthwith. If a conference is
12 granted, the department shall fix the time and place therefor and
13 notify the petitioner thereof by mail or electronically as provided
14 in RCW 82.32.135. After the conference the department may make such
15 determination as may appear to it to be just and lawful and shall
16 mail a copy of its determination to the petitioner, or provide a copy
17 of its determination electronically as provided in RCW 82.32.135. If
18 no such petition is filed within the thirty-day period the assessment
19 covered by the notice shall become final.

20 (2) The procedures provided for herein shall apply also to a
21 notice denying, in whole or in part, an application for a pollution
22 control tax exemption and credit certificate, with such modifications
23 to such procedures established by departmental rules and regulations
24 as may be necessary to accommodate a claim for exemption or credit.

25 (3) The procedures provided in subsection (1) of this section, as
26 modified in this subsection (3), also apply to a notice denying, in
27 whole or in part, a petition for relief from joint and several
28 liability under section 8 of this act. A petition under this
29 subsection (3) is due within 30 days after the date the department
30 issued its denial of relief under section 8 of this act. The petition
31 must set forth the reasons why the department should grant the
32 petitioner's request for relief from joint and several liability. The
33 petition must also set forth the portion of any deficiency allocable
34 to the petitioner and the portion solely allocable to the
35 petitioner's current or former spouse or state registered domestic
36 partner.

37 NEW SECTION. **Sec. 10.** SUBSTANTIAL WEALTH TAX VALUATION
38 UNDERSTATEMENT PENALTY IMPOSED. (1) Except as otherwise provided in
39 this section, if any portion of an underpayment of tax due under this

1 chapter is due to a substantial wealth tax valuation understatement,
2 there must be added to the tax an amount equal to:

3 (a) In the case of any substantial wealth tax valuation
4 understatement that is a gross wealth tax valuation misstatement, 50
5 percent of the portion of the underpayment due to the valuation
6 understatement; or

7 (b) In all other cases, 30 percent of the portion of the
8 underpayment due to the valuation understatement.

9 (2) The penalty imposed under subsection (1) of this section does
10 not apply unless the portion of the underpayment attributable to
11 substantial wealth tax valuation understatements for the calendar
12 year exceeds \$5,000.

13 (3) The penalty imposed in this section is in addition to any
14 other applicable penalties imposed under this chapter or chapter
15 82.32 RCW on the same tax due, except for the penalty imposed in RCW
16 82.32.090(7).

17 (4) For purposes of this section, the following definitions
18 apply:

19 (a) "Gross wealth tax valuation misstatement" means the fair
20 market value of any financial intangible assets reported on a return
21 required by this chapter is 40 percent or less of the amount
22 determined to be the correct amount of such fair market value.

23 (b) "Substantial wealth tax valuation understatement" means the
24 fair market value of any financial intangible assets reported on a
25 return required by this chapter is 65 percent or less of the amount
26 determined to be the correct amount of such fair market value.

27 NEW SECTION. **Sec. 11.** ENFORCEMENT. Beginning in calendar year
28 2025, to the extent that sufficient funds are specifically
29 appropriated for this purpose, the department must initiate audits of
30 at least 10 percent of individuals who are registered with the
31 department to pay the tax imposed in this chapter, increasing to 15
32 percent in calendar year 2026, and 20 percent in calendar year 2027
33 and thereafter.

34 NEW SECTION. **Sec. 12.** DISTRIBUTION OF TAX REVENUES. All taxes
35 collected under this chapter, including associated penalties and
36 interest, must be equally distributed between the disabilities care
37 trust account created in section 17 of this act, education legacy
38 trust account created in RCW 83.100.230, Washington housing trust

1 fund created in RCW 43.185.030, and the taxpayer justice account
2 created in section 18 of this act.

3 NEW SECTION. **Sec. 13.** RULE OF CONSTRUCTION. The legislature
4 intends that any provision of this chapter that is found to be
5 ambiguous by a court of competent jurisdiction or administrative
6 agency be construed in favor of application of the tax,
7 notwithstanding any contrary common law rule of statutory
8 construction.

9 NEW SECTION. **Sec. 14.** TITLE 84 RCW INAPPLICABLE TO WEALTH TAX.
10 Title 84 RCW does not apply to this chapter.

11 **Sec. 15.** RCW 43.135.034 and 2020 c 218 s 4 are each amended to
12 read as follows:

13 (1) (a) Any action or combination of actions by the legislature
14 that raises taxes may be taken only if approved by a two-thirds vote
15 in both the house of representatives and the senate. Pursuant to the
16 referendum power set forth in Article II, section 1(b) of the state
17 Constitution, tax increases may be referred to the voters for their
18 approval or rejection at an election.

19 (b) For the purposes of this chapter, "raises taxes" means any
20 action or combination of actions by the state legislature that
21 increases state tax revenue deposited in any fund, budget, or
22 account, regardless of whether the revenues are deposited into the
23 general fund.

24 (2) (~~The state or any political subdivision~~) Political
25 subdivisions of the state may not impose any tax on intangible
26 property listed in RCW 84.36.070 as that statute exists on January 1,
27 1993.

28 **Sec. 16.** RCW 82.32.655 and 2010 1st sp.s. c 23 s 201 are each
29 amended to read as follows:

30 (1) It is the legislature's intent to require all taxpayers to
31 pay their fair share of taxes. To accomplish this purpose, it is the
32 legislature's intent to stop transactions or arrangements that are
33 designed to unfairly avoid taxes.

34 (2) The department must disregard, for tax purposes, the tax
35 avoidance transactions or arrangements that are described in
36 subsection (3) of this section. The department must deny the tax

1 benefit that would otherwise result from the tax avoidance
2 transaction or arrangement. In determining whether the department
3 must disregard a transaction or arrangement described under
4 subsection (3) of this section, the department may consider:

5 (a) Whether an arrangement or transaction changes in a meaningful
6 way, apart from its tax effects, the economic positions of the
7 participants in the arrangement when considered as a whole;

8 (b) Whether substantial nontax reasons exist for entering into an
9 arrangement or transaction;

10 (c) Whether an arrangement or transaction is a reasonable means
11 of accomplishing a substantial nontax purpose;

12 (d) An entities' relative contributions to the work that
13 generates income;

14 (e) The location where work is performed; and

15 (f) Other relevant factors.

16 (3) This section applies only to the following transactions or
17 arrangements:

18 (a) Arrangements that are, in form, a joint venture or similar
19 arrangement between a construction contractor and the owner or
20 developer of a construction project but that are, in substance,
21 substantially guaranteed payments for the purchase of construction
22 services characterized by a failure of the parties' agreement to
23 provide for the contractor to share substantial profits and bear
24 significant risk of loss in the venture;

25 (b) Arrangements through which a taxpayer attempts to avoid tax
26 under chapter 82.04 RCW by disguising income received, or otherwise
27 avoiding tax on income, from a person that is not affiliated with the
28 taxpayer from business activities that would be taxable in Washington
29 by moving that income to another entity that would not be taxable in
30 Washington; (~~and~~)

31 (c) Arrangements through which a taxpayer attempts to avoid tax
32 under chapter 82.08 or 82.12 RCW by engaging in a transaction to
33 disguise its purchase or use of tangible personal property by vesting
34 legal title or other ownership interest in another entity over which
35 the taxpayer exercises control in such a manner as to effectively
36 retain control of the tangible personal property; and

37 (d) Arrangements through which a taxpayer attempts to avoid tax
38 under chapter 84A.--- RCW (the new chapter created in section 21 of
39 this act) through intentional deception, such as by concealing assets
40 or evidence of the location of the taxpayer's domicile in this state,

1 by transferring assets prior to December 31st when the taxpayer
2 effectively retained control of the assets, or by effectively
3 converting taxable assets into nontaxable assets prior to December
4 31st when the taxpayer engages in a substantially offsetting
5 transaction. This subsection (3)(d) does not apply to substantial
6 wealth tax valuation understatements subject to the penalty in
7 section 10 of this act.

8 (4) In determining whether a transaction or arrangement comes
9 within the scope of subsection (3) of this section, the department is
10 not required to prove a taxpayer's subjective intent in engaging in
11 the transaction or arrangement.

12 (5) The department must adopt rules to assist in determining
13 whether a transaction or arrangement is within the scope of
14 subsection (3) of this section. The adoption of a rule as required
15 under this subsection is not a condition precedent for the
16 department's exercise of the authority provided in this section. Any
17 rules adopted under this section must include examples of
18 transactions that the department will disregard for tax purposes.

19 (6) This section does not affect the department's authority to
20 apply any other remedies available under statutory or common law.

21 (7) For purposes of this section, "affiliated" means under common
22 control. "Control" means the possession, directly or indirectly, of
23 more than (~~fifty~~) 50 percent of the power to direct or cause the
24 direction of the management and policies of a person, whether through
25 the ownership of voting shares, by contract, or otherwise.

26 NEW SECTION. **Sec. 17.** DISABILITIES CARE TRUST ACCOUNT CREATED.

27 The disabilities care trust account is created in the state treasury.
28 Taxes must be deposited into the account as provided in section 12 of
29 this act. Moneys in the account may be spent only after
30 appropriation. Expenditures from the account may be used only for
31 persons with disabilities.

32 NEW SECTION. **Sec. 18.** TAXPAYER JUSTICE ACCOUNT CREATED. The

33 taxpayer justice account is created in the state treasury. Taxes must
34 be deposited into the account as provided in section 12 of this act.
35 Moneys in the account may be spent only after appropriation.
36 Expenditures from the account may be used only for providing credits
37 against taxes paid by Washington state residents.

1 NEW SECTION. **Sec. 19.** EXEMPTION FROM CERTAIN LAWS APPLICABLE TO
2 NEW TAX PREFERENCES. RCW 82.32.805 and 82.32.808 do not apply to this
3 act.

4 NEW SECTION. **Sec. 20.** SEVERABILITY CLAUSE. If any provision of
5 this act or its application to any person or circumstance is held
6 invalid, the remainder of the act or the application of the provision
7 to other persons or circumstances is not affected.

8 NEW SECTION. **Sec. 21.** CODIFICATION DIRECTION. Sections 1
9 through 8, 10 through 14, 17, and 18 of this act constitute a new
10 chapter in a new title to be codified as Title 84A RCW.

11 NEW SECTION. **Sec. 22.** This act is necessary for the support of
12 the state government and its existing public institutions.

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