
BILL REQUEST - CODE REVISER'S OFFICE

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ATTY/TYPIST: CL:jlb

BRIEF DESCRIPTION: Enacting a tax on stocks, bonds, and other financial intangible assets for the benefit of public schools.

1 AN ACT Relating to enacting a tax on stocks, bonds, and other
2 financial intangible assets for the benefit of public schools;
3 amending RCW 82.32.160, 43.135.034, and 82.32.655; adding a new Title
4 to the Revised Code of Washington to be codified as Title 84A RCW;
5 creating new sections; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that it
8 is the state's paramount duty to amply provide every child in the
9 state with an education, including children who qualify for special
10 education services, creating the opportunity for each child to
11 succeed in school and achieve success in life. The legislature
12 further recognizes that not only our Constitution, but our
13 conscience, call on us to ensure that all Washington children are
14 prepared for a successful future through access to a high quality
15 public education. Historical education reform efforts have been
16 ongoing since 2009 with an emphasis on creating a fully funded system
17 that is student-focused, supports all students, and fosters
18 diversity, equity, and a welcoming classroom in every school. The
19 legislature recognizes we are not done. The legislature acknowledges
20 the most important priority and challenge we still face is fully
21 funding all of our basic education obligations, including the costs

1 associated with serving the needs of students with disabilities and
2 the growing daily operating costs of districts. Meeting this
3 challenge is paramount. The legislature also finds that cuts to
4 essential services, including health care and other programs that
5 protect the safety and well-being of the public, as well as social
6 services protecting our most vulnerable residents, often impact
7 programs that provide holistic services for children and their
8 families and ultimately undermine our students' ability to arrive at
9 the classroom ready to learn. It is the legislature's intent to meet
10 our constitutional obligation and follow through on the promises we
11 have made to Washington's 1,100,000 school children by raising new
12 progressive revenue for our public schools, ensuring our students
13 have the resources and tools necessary for success.

14 (2) Thus, the legislature intends to diversify our state's
15 revenue sources to include taxing certain financial intangible assets
16 that have historically been fully exempted from the tax code; assets
17 that are often the key drivers of wealth inequality in our state. The
18 legislature intends to levy a tax of \$10 on every \$1,000 of the true
19 and fair value of certain financial intangible assets, such as stocks
20 and bonds, while exempting retirement savings, college savings, and
21 ownership interests in private companies and partnerships.
22 Additionally, to continue to make progress toward the state having a
23 fair and balanced tax system that works for all residents, the
24 legislature intends to exempt stocks, bonds, and other financial
25 intangible assets if the combined true and fair value of such assets
26 owned by the person is less than \$50,000,000.

27 (3) Furthermore, the legislature finds that more progress is
28 needed for the state to have a fair and balanced tax system that can
29 provide sustainable, ample funding for public schools and other
30 essential public programs and services. Washington's tax system
31 remains the second most regressive in the nation as it asks those
32 with the least to pay the most as a percentage of their income. Low-
33 income Washingtonians pay at least three times more in state and
34 local taxes as a percentage of their income than the state's highest-
35 income households. By exempting all stocks, bonds, and other
36 financial intangible assets owned by a person with less than
37 \$50,000,000 of such assets, this tax is estimated to impact just
38 4,300 Washingtonians, taking a significant step toward reducing the
39 disproportionate reliance on low and middle-income households to fund

1 public schools as we strive to meet our state's paramount duty and
2 honor our commitment to our kids.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Artificial person" means a corporation; limited liability
7 company; limited liability partnership, limited partnership, joint
8 venture, or any other kind of partnership; association; business
9 trust or any other trust; estate; or any other organization.

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

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

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

17 (5) "Domicile" means:

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

20 (b) For purposes of an artificial person:

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

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

25 (6) "Financial intangible assets" means cash and cash
26 equivalents; financial investments such as annuities, bonds, treasury
27 bills, mutual funds, exchange traded funds, publicly traded stocks,
28 publicly traded options, futures contracts, commodities contracts,
29 put and call options, certificates of interest in gold and other
30 precious metals or gems, and other similar investments; units of
31 ownership in a subchapter K entity; units of ownership and stock in a
32 subchapter S entity; and other similar intangible assets.

33 (7) "Intangible assets" means both financial intangible assets
34 and nonfinancial intangible assets.

35 (8) "Nonfinancial intangible assets" means all intangible
36 property other than financial intangible assets, such as trademarks,
37 trade names, brand names, patents, copyrights, trade secrets,
38 licenses, permits, core deposits of financial institutions,
39 noncompete agreements, customer lists, patient lists, favorable

1 contracts, favorable financing agreements, reputation, exceptional
2 management, prestige, good name, integrity of a business, private
3 nongovernmental personal service contracts, and private
4 nongovernmental athletic or sports franchises or agreements.

5 (9) "Person" means any natural person or artificial person.

6 (10) "Subchapter K entity" means a partnership, including a
7 limited partnership, limited liability partnership, limited liability
8 limited partnership, limited liability company, joint venture, or any
9 other entity subject to subchapter K of the internal revenue code, 26
10 U.S.C. Secs. 701 through 761, including a single member limited
11 liability company.

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

14 (12) "Tax year" means the calendar year immediately preceding the
15 year in which the tax under this chapter is due and payable to the
16 department.

17 (13) "Taxable worldwide intangible assets" means a person's
18 worldwide intangible assets, excluding the true and fair value of any
19 intangible property exempt from the tax imposed under this chapter.

20 (14) "True and fair value" means the fair market value and is the
21 amount of money that a willing buyer would pay to a willing seller
22 for property in an arms-length transaction if both parties were fully
23 informed about all advantages and disadvantages of the property and
24 neither party is acting under a compulsion to enter into the
25 transaction.

26 (15) "Washington resident" or "resident" means any artificial
27 person or natural person who is domiciled in this state at any time
28 during the tax year.

29 (16)(a) "Worldwide intangible assets" means the true and fair
30 value of all intangible assets, or portion thereof, owned or
31 controlled by a resident.

32 (b) For purposes of this subsection:

33 (i) "Control" means a person possesses, directly or indirectly,
34 alone or with one or more close associates, more than 50 percent of
35 the power to sell or otherwise dispose of intangible assets. However,
36 a person is not considered to possess control over assets if their
37 power to sell or dispose is limited to engaging in such transactions
38 on behalf of the owner and the person has a fiduciary relationship
39 duty to the owner with respect to such assets.

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

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

5 NEW SECTION. **Sec. 3.** TAX IMPOSED. (1) Beginning January 1,
6 2026, for taxes due in 2027, an intangible assets tax is imposed on
7 each Washington resident. The tax equals \$10 per \$1,000 of the true
8 and fair value of a resident's taxable worldwide intangible assets.

9 (2) Except as provided in subsection (3) of this section, the tax
10 imposed under this section applies to the true and fair value of a
11 resident's taxable worldwide intangible assets as of December 31st of
12 the tax year.

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

16 (a) The tax imposed under this section applies to the true and
17 fair value of the individual's taxable worldwide intangible assets as
18 of the date of the individual's death; and

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

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

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

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

30 (5)(a) If an individual is treated as the owner of any portion of
31 a trust that qualifies as a grantor trust for federal income tax
32 purposes, that individual must be treated as the owner of that
33 property for purposes of the tax imposed in this section to the
34 extent such property includes intangible assets.

35 (b) A grantor of a trust that does not qualify as a grantor trust
36 for federal income tax purposes must nevertheless be treated as the
37 owner of the intangible assets of the trust for purposes of the tax
38 imposed in this section if the grantor's transfer of assets to the

1 trust is treated as an incomplete gift under Title 26 U.S.C. Sec.
2 2511 of the internal revenue code and its accompanying regulations.

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

10 (7) All moneys collected from the intangible assets tax must be
11 deposited into the state general fund for the support of common
12 schools.

13 NEW SECTION. **Sec. 4.** WHEN TAXES AND TAX RETURNS ARE DUE. (1) (a)
14 Except as otherwise provided in this section or RCW 82.32.080, each
15 resident owing tax under this chapter must file, on forms prescribed
16 by the department, a return with the department on or before April
17 15th each year reporting the true and fair value of that person's
18 taxable worldwide intangible assets for the immediate preceding
19 calendar year, and such other information the department determines
20 necessary to administer the tax imposed under this chapter.

21 (b) (i) Except as provided in (b) (ii) of this subsection (1),
22 returns and all supporting documents must be filed electronically
23 using the department's online tax filing service or other method of
24 electronic reporting as the department may authorize.

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

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

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

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

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

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

3 (3) Each resident required to file a return under this section
4 must, without assessment, notice, or demand, pay any tax due under
5 this chapter to the department on or before the due date of the
6 return, regardless of any filing extension granted by the department.
7 The tax must be paid by electronic funds transfer as defined in RCW
8 82.32.085 or by other forms of electronic payment as may be
9 authorized by the department. The department may waive the electronic
10 payment requirement for good cause as provided in RCW 82.32.080. If
11 any tax due under this chapter is not paid by the due date, interest
12 and penalties as provided in chapter 82.32 RCW apply to the
13 deficiency.

14 (4)(a) If any return due under subsection (1) of this section is
15 not filed with the department by the due date or any extension
16 granted by the department, the department must assess a penalty in
17 the amount of five percent of the tax due for the tax year covered by
18 the return for each month or portion of a month that the return
19 remains unfiled. The total penalty assessed under this subsection may
20 not exceed 25 percent of the tax due for the tax year covered by the
21 delinquent return. The penalty under this subsection is in addition
22 to any penalties assessed for the late payment of any tax due on the
23 return.

24 (b) The department must waive the penalty imposed under this
25 subsection if:

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

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

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

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

37 (3) The department may not make an assessment or correction of an
38 assessment for additional taxes, penalties, or interest due more than

1 four years after the year in which a return is filed under section 4
2 of this act except as provided in RCW 82.32.050(4).

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

5 (1) Financial intangible assets owned by a Washington resident
6 who owns worldwide intangible assets not exempt under subsections (2)
7 through (13) of this section with a combined true and fair value of
8 less than \$50,000,000 as of December 31st of the tax year;

9 (2) Cash and cash equivalents;

10 (3) Any of the following financial investments:

11 (a) Annuities;

12 (b) Publicly traded options;

13 (c) Futures contracts;

14 (d) Commodities contracts;

15 (e) Put and call options;

16 (f) Certificates of interest in gold and other precious metals or
17 gems; and

18 (g) Other similar investments except publicly traded stocks,
19 publicly traded bonds, mutual funds, or exchange traded funds;

20 (4) Units of ownership in a subchapter K entity;

21 (5) Units of ownership and stock in a subchapter S entity;

22 (6) Any financial intangible assets held under a retirement
23 savings account under Title 26 U.S.C. Sec. 401(k) of the internal
24 revenue code, a tax-sheltered annuity or custodial account described
25 in Title 26 U.S.C. Sec. 403(b) of the internal revenue code, a
26 deferred compensation plan under Title 26 U.S.C. Sec. 457(b) of the
27 internal revenue code, an individual retirement account or individual
28 retirement annuity described in Title 26 U.S.C. Sec. 408 of the
29 internal revenue code, a Roth individual retirement account described
30 in Title 26 U.S.C. Sec. 408A of the internal revenue code, an
31 employee defined contribution program, an employee defined benefit
32 plan, or a similar retirement savings vehicle, whether foreign or
33 domestic, that penalizes withdrawals until the legal or beneficial
34 owner reaches a certain age;

35 (7) Nonfinancial intangible assets;

36 (8) Worldwide intangible assets of artificial persons. However,
37 the exemption provided in this subsection (8) does not affect the
38 computation of the true and fair value of a natural person's
39 worldwide intangible assets;

1 (9) Any obligations or evidences of debt of the United States and
2 obligations of United States government agencies and corporations
3 established by acts of the congress of the United States to the
4 extent required by federal law to be exempt from taxation by the
5 states;

6 (10) Any obligations or evidences of debt of the state of
7 Washington and its agencies, instrumentalities, political
8 subdivisions, and municipal corporations, which include municipal
9 bonds;

10 (11) Any stock of the federal reserve bank, the government
11 national mortgage association, the federal national mortgage
12 association, and other corporations and associations established by
13 acts of the congress of the United States;

14 (12) Any property subject to ad valorem taxation under RCW
15 84.36.005; and

16 (13) Any financial intangible assets held under a tuition savings
17 account or prepaid tuition plan, as defined under Title 26 U.S.C.
18 Sec. 529 of the internal revenue code, a Coverdell education savings
19 account, also known as an education individual retirement account,
20 under Title 26 U.S.C. Sec. 530 of the internal revenue code, or a
21 similar vehicle providing federal tax savings to pay a legal or
22 beneficial owner's qualified education expenses.

23 NEW SECTION. **Sec. 7.** EXEMPTION ON ASSETS WHERE SIMILAR TAX HAS
24 BEEN PAID TO ANOTHER STATE. (1) Financial intangible assets subject
25 to a similar tax legally imposed on the property and paid by the
26 taxpayer to another state for the same tax year are exempt from
27 taxation.

28 (2) The exemption under this section is not available if the
29 taxpayer was domiciled in Washington state for a greater amount of
30 time than in the other state during the tax year.

31 (3) For purposes of this section, a similar tax does not include
32 an estate tax, inheritance tax, gift tax, net income tax, business
33 activity tax including a gross earnings tax or gross receipts tax,
34 activity tax, or other tax similar to the aforementioned taxes. A tax
35 on the value of intangible property may be considered to be a similar
36 intangible assets tax even though taxpayers are allowed a deduction
37 for their liabilities in computing the tax.

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

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

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

13 (a) The individual jointly filed a return under this chapter for
14 a taxable year;

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

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

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

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

28 (4) If an individual seeking relief under this section
29 establishes that he or she did not know, and had no reason to know,
30 the extent of such understatement, then such individual must be
31 relieved of liability for tax not properly paid, including penalties
32 and interest, for such taxable year to the extent that such liability
33 is attributable to the portion of such understatement of which such
34 individual did not know and had no reason to know.

35 (5) An individual seeking relief under this section has the
36 burden of proof with respect to establishing the portion of any
37 deficiency allocable to such individual and the portion solely
38 allocable to the individual's current or former spouse or state
39 registered domestic partner.

1 (6) (a) Notwithstanding any other provision of this section, an
2 individual seeking relief under this section may not seek relief for
3 taxes on intangible assets derived from disqualified assets. For the
4 purposes of this subsection, "disqualified asset" means any asset or
5 right to an asset transferred between spouses or state registered
6 domestic partners required to jointly file a return under this
7 chapter if the principal purpose of the transfer was the avoidance of
8 tax.

9 (b) Except as provided in (c) of this subsection (6), any
10 transfer of assets between two spouses or state registered domestic
11 partners, required to jointly file a return under this chapter, that
12 is made within 12 months prior to December 31st of the tax year for
13 which an individual is seeking relief under this section is presumed
14 to be made with the principle purpose of avoidance of tax.

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

21 (7) If relief is granted under this section, any asset giving
22 rise to a deficiency on a jointly filed return shall be allocated to
23 the individuals filing the return in the same manner as it would have
24 been allocated if the individuals had filed separate returns for the
25 taxable year. No relief granted under this section may reduce the
26 combined tax liability of individuals required to jointly file a
27 return under this chapter in any given tax year.

28 (8) Any relief granted under this section may not result in an
29 increase in the exemption amount under section 6(1) of this act.
30 Nothing in this section shall be construed to permit individuals
31 required to jointly file a return under this chapter to claim a
32 combined exemption under section 6(1) of this act exceeding the limit
33 established in section 6(1) of this act.

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

38 (10) The department may by rule provide a method or methods for
39 allocating assets between individuals required to jointly file
40 returns under this chapter in cases where one of the individuals is

1 granted relief under this section. The department may also by rule
2 provide substantiation requirements for an individual to establish
3 his or her eligibility for relief under this section.

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

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

9 (1) Any person having been issued a notice of additional taxes,
10 delinquent taxes, interest, or penalties assessed by the department,
11 may within (~~thirty~~) 30 days after the issuance of the original
12 notice of the amount thereof or within the period covered by any
13 extension of the due date thereof granted by the department petition
14 the department in writing for a correction of the amount of the
15 assessment, and a conference for examination and review of the
16 assessment. The petition shall set forth the reasons why the
17 correction should be granted and the amount of the tax, interest, or
18 penalties, which the petitioner believes to be due. The department
19 shall promptly consider the petition and may grant or deny it. If
20 denied, the petitioner shall be notified by mail, or electronically
21 as provided in RCW 82.32.135, thereof forthwith. If a conference is
22 granted, the department shall fix the time and place therefor and
23 notify the petitioner thereof by mail or electronically as provided
24 in RCW 82.32.135. After the conference the department may make such
25 determination as may appear to it to be just and lawful and shall
26 mail a copy of its determination to the petitioner, or provide a copy
27 of its determination electronically as provided in RCW 82.32.135. If
28 no such petition is filed within the (~~thirty~~) 30-day period the
29 assessment covered by the notice shall become final.

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

35 (3) The procedures provided in subsection (1) of this section, as
36 modified in this subsection (3), also apply to a notice denying, in
37 whole or in part, a petition for relief from joint and several
38 liability under section 8 of this act. A petition under this
39 subsection (3) is due within 30 days after the date the department

1 issued its denial of relief under section 8 of this act. The petition
2 must set forth the reasons why the department should grant the
3 petitioner's request for relief from joint and several liability. The
4 petition must also set forth the portion of any deficiency allocable
5 to the petitioner and the portion solely allocable to the
6 petitioner's current or former spouse or state registered domestic
7 partner.

8 NEW SECTION. **Sec. 10.** SUBSTANTIAL INTANGIBLE ASSETS TAX
9 VALUATION UNDERSTATEMENT PENALTY IMPOSED. (1) Except as otherwise
10 provided in this section, if any portion of an underpayment of tax
11 due under this chapter is due to a substantial intangible assets tax
12 valuation understatement, there must be added to the tax an amount
13 equal to:

14 (a) In the case of any substantial intangible assets tax
15 valuation understatement that is a gross intangible assets tax
16 valuation misstatement, 50 percent of the portion of the underpayment
17 due to the valuation understatement; or

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

20 (2) The penalty imposed under subsection (1) of this section does
21 not apply unless the portion of the underpayment attributable to
22 substantial intangible assets tax valuation understatements for the
23 calendar year exceeds \$5,000.

24 (3) The penalty imposed in this section is in addition to any
25 other applicable penalties imposed under this chapter or chapter
26 82.32 RCW on the same tax due, except for the penalty imposed in RCW
27 82.32.090(7).

28 (4) For purposes of this section, the following definitions
29 apply:

30 (a) "Gross intangible assets tax valuation misstatement" means
31 the true and fair value of any intangible assets reported on a return
32 required by this chapter is 40 percent or less of the amount
33 determined to be the correct amount of such true and fair value.

34 (b) "Substantial intangible assets tax valuation understatement"
35 means the true and fair value of any intangible assets reported on a
36 return required by this chapter is 65 percent or less of the amount
37 determined to be the correct amount of such true and fair value.

1 NEW SECTION. **Sec. 11.** RULE OF CONSTRUCTION. The legislature
2 intends that any provision of this chapter that is found to be
3 ambiguous by a court of competent jurisdiction or administrative
4 agency be construed in favor of application of the tax,
5 notwithstanding any contrary common law rule of statutory
6 construction.

7 NEW SECTION. **Sec. 12.** TITLE 84 RCW INAPPLICABLE TO INTANGIBLE
8 ASSETS TAX. Title 84 RCW does not apply to this chapter.

9 **Sec. 13.** RCW 43.135.034 and 2023 c 102 s 30 are each amended to
10 read as follows:

11 (1) For the purposes of this chapter, "raises taxes" means any
12 action or combination of actions by the state legislature that
13 increases state tax revenue deposited in any fund, budget, or
14 account, regardless of whether the revenues are deposited into the
15 general fund.

16 (2) (~~The state or any political~~) Political subdivisions of the
17 state may not impose any tax on intangible property listed in RCW
18 84.36.070 as that statute exists on January 1, 1993.

19 **Sec. 14.** RCW 82.32.655 and 2010 1st sp.s. c 23 s 201 are each
20 amended to read as follows:

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

25 (2) The department must disregard, for tax purposes, the tax
26 avoidance transactions or arrangements that are described in
27 subsection (3) of this section. The department must deny the tax
28 benefit that would otherwise result from the tax avoidance
29 transaction or arrangement. In determining whether the department
30 must disregard a transaction or arrangement described under
31 subsection (3) of this section, the department may consider:

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

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

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

3 (d) An entities' relative contributions to the work that
4 generates income;

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

6 (f) Other relevant factors.

7 (3) This section applies only to the following transactions or
8 arrangements:

9 (a) Arrangements that are, in form, a joint venture or similar
10 arrangement between a construction contractor and the owner or
11 developer of a construction project but that are, in substance,
12 substantially guaranteed payments for the purchase of construction
13 services characterized by a failure of the parties' agreement to
14 provide for the contractor to share substantial profits and bear
15 significant risk of loss in the venture;

16 (b) Arrangements through which a taxpayer attempts to avoid tax
17 under chapter 82.04 RCW by disguising income received, or otherwise
18 avoiding tax on income, from a person that is not affiliated with the
19 taxpayer from business activities that would be taxable in Washington
20 by moving that income to another entity that would not be taxable in
21 Washington; (~~and~~)

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

28 (d) Arrangements through which a taxpayer attempts to avoid tax
29 under chapter 84A.--- RCW (the new chapter created in section 17 of
30 this act) through intentional deception, such as by concealing assets
31 or evidence of the location of the taxpayer's domicile in this state,
32 by transferring assets prior to December 31st when the taxpayer
33 effectively retained control of the assets, or by effectively
34 converting taxable assets into nontaxable assets prior to December
35 31st when the taxpayer engages in a substantially offsetting
36 transaction. This subsection (3)(d) does not apply to substantial
37 intangible assets tax valuation understatements subject to the
38 penalty in section 10 of this act.

39 (4) In determining whether a transaction or arrangement comes
40 within the scope of subsection (3) of this section, the department is

1 not required to prove a taxpayer's subjective intent in engaging in
2 the transaction or arrangement.

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

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

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

17 NEW SECTION. **Sec. 15.** EXEMPTION FROM CERTAIN LAWS APPLICABLE TO
18 NEW TAX PREFERENCES. RCW 82.32.805 and 82.32.808 do not apply to this
19 act.

20 NEW SECTION. **Sec. 16.** SEVERABILITY CLAUSE. If any provision of
21 this act or its application to any person or circumstance is held
22 invalid, the remainder of the act or the application of the provision
23 to other persons or circumstances is not affected.

24 NEW SECTION. **Sec. 17.** CODIFICATION DIRECTION. Sections 1
25 through 8 and 10 through 12 of this act constitute a new chapter in a
26 new title to be codified as Title 84A RCW.

27 NEW SECTION. **Sec. 18.** SHORT TITLE. This act may be known and
28 cited as the "intangible assets property tax act."

29 NEW SECTION. **Sec. 19.** This act is necessary for the support of
30 the state government and its existing public institutions.

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