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HOUSE BILL 1823

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Nealey, Springer, Chandler, Blake, Buys, Lytton, Walsh, Orcutt, Dent, Schmick, and Condotta; by request of Office of Financial Management

Read first time 01/29/15. Referred to Committee on Finance.

1 AN ACT Relating to extending the expiration date of tax  
2 preferences for food processing; amending RCW 82.04.4266, 82.04.4268,  
3 and 82.04.4269; reenacting and amending RCW 82.04.260; creating a new  
4 section; providing an effective date; providing expiration dates; and  
5 declaring an emergency.

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

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

14 (1) The legislature categorizes this tax preference as one  
15 intended to accomplish the general purposes indicated in RCW  
16 82.32.808(2) (c) and (e).

17 (2) It is the legislature's specific public policy objective to  
18 create and retain jobs and continue providing tax relief to the food  
19 processing industry.

20 (3) To measure the effectiveness of the exemptions in sections 2  
21 through 5 of this act in achieving the public policy objectives

1 described in subsection (2) of this section, the joint legislative  
2 audit and review committee must evaluate the following:

3 (a) The number of businesses that claim the exemptions in  
4 sections 2 through 5 of this act;

5 (b) The change in total taxable income for taxpayers claiming the  
6 exemptions under sections 2 through 5 of this act;

7 (c) The change in total employment for taxpayers claiming the  
8 exemptions under sections 2 through 5 of this act; and

9 (d) For each calendar year, the total amount of exemptions  
10 claimed under sections 2 through 5 of this act as a percentage of  
11 total taxable income for taxpayers within taxable income categories.

12 (4) The information provided in the annual survey submitted by  
13 the taxpayers under RCW 82.32.585, tax data collected by the  
14 department of revenue, and data collected by the employment security  
15 department is intended to provide the informational basis for the  
16 evaluation under subsection (3) of this section.

17 (5) In addition to the data sources described under subsection  
18 (4) of this section, the joint legislative audit and review committee  
19 may use any other data it deems necessary in performing the  
20 evaluation under subsection (3) of this section.

21 **Sec. 2.** RCW 82.04.4266 and 2014 c 140 s 9 are each amended to  
22 read as follows:

23 (1) This chapter does not apply to the value of products or the  
24 gross proceeds of sales derived from:

25 (a) Manufacturing fruits or vegetables by canning, preserving,  
26 freezing, processing, or dehydrating fresh fruits or vegetables; or

27 (b) Selling at wholesale fruits or vegetables manufactured by the  
28 seller by canning, preserving, freezing, processing, or dehydrating  
29 fresh fruits or vegetables and sold to purchasers who transport in  
30 the ordinary course of business the goods out of this state. A person  
31 taking an exemption under this subsection (1)(b) must keep and  
32 preserve records for the period required by RCW 82.32.070  
33 establishing that the goods were transported by the purchaser in the  
34 ordinary course of business out of this state.

35 (2) For purposes of this section, "fruits" and "vegetables" do  
36 not include marijuana, useable marijuana, or marijuana-infused  
37 products.

1 (3) A person claiming the exemption provided in this section must  
2 file a complete annual survey with the department under RCW  
3 82.32.585.

4 (4) This section expires July 1, (~~2015~~) 2025.

5 **Sec. 3.** RCW 82.04.4268 and 2013 2nd sp.s. c 13 s 204 are each  
6 amended to read as follows:

7 (1) In computing tax there may be deducted from the measure of  
8 tax, the value of products or the gross proceeds of sales derived  
9 from:

10 (a) Manufacturing dairy products; or

11 (b) Selling dairy products manufactured by the seller to  
12 purchasers who either transport in the ordinary course of business  
13 the goods out of this state or purchasers who use such dairy products  
14 as an ingredient or component in the manufacturing of a dairy  
15 product. A person taking an exemption under this subsection (1)(b)  
16 must keep and preserve records for the period required by RCW  
17 82.32.070 establishing that the goods were transported by the  
18 purchaser in the ordinary course of business out of this state or  
19 sold to a manufacturer for use as an ingredient or component in the  
20 manufacturing of a dairy product.

21 (2) "Dairy products" has the same meaning as provided in RCW  
22 82.04.260.

23 (3) A person claiming the exemption provided in this section must  
24 file a complete annual survey with the department under RCW  
25 82.32.585.

26 (4) This section expires July 1, (~~2015~~) 2025.

27 **Sec. 4.** RCW 82.04.4269 and 2012 2nd sp.s. c 6 s 203 are each  
28 amended to read as follows:

29 (1) This chapter does not apply to the value of products or the  
30 gross proceeds of sales derived from:

31 (a) Manufacturing seafood products that remain in a raw, raw  
32 frozen, or raw salted state at the completion of the manufacturing by  
33 that person; or

34 (b) Selling manufactured seafood products that remain in a raw,  
35 raw frozen, or raw salted state to purchasers who transport in the  
36 ordinary course of business the goods out of this state. A person  
37 taking an exemption under this subsection (1)(b) must keep and  
38 preserve records for the period required by RCW 82.32.070

1 establishing that the goods were transported by the purchaser in the  
2 ordinary course of business out of this state.

3 (2) A person claiming the exemption provided in this section must  
4 file a complete annual survey with the department under RCW  
5 82.32.585.

6 (3) This section expires July 1, ((2015)) 2025.

7 **Sec. 5.** RCW 82.04.260 and 2014 c 140 s 6 and 2014 c 140 s 4 are  
8 each reenacted and amended to read as follows:

9 (1) Upon every person engaging within this state in the business  
10 of manufacturing:

11 (a) Wheat into flour, barley into pearl barley, soybeans into  
12 soybean oil, canola into canola oil, canola meal, or canola by-  
13 products, or sunflower seeds into sunflower oil; as to such persons  
14 the amount of tax with respect to such business is equal to the value  
15 of the flour, pearl barley, oil, canola meal, or canola by-product  
16 manufactured, multiplied by the rate of 0.138 percent;

17 (b) Beginning July 1, ((2015)) 2025, seafood products that remain  
18 in a raw, raw frozen, or raw salted state at the completion of the  
19 manufacturing by that person; or selling manufactured seafood  
20 products that remain in a raw, raw frozen, or raw salted state at the  
21 completion of the manufacturing, to purchasers who transport in the  
22 ordinary course of business the goods out of this state; as to such  
23 persons the amount of tax with respect to such business is equal to  
24 the value of the products manufactured or the gross proceeds derived  
25 from such sales, multiplied by the rate of 0.138 percent. Sellers  
26 must keep and preserve records for the period required by RCW  
27 82.32.070 establishing that the goods were transported by the  
28 purchaser in the ordinary course of business out of this state;

29 (c)(i) Beginning July 1, ((2015)) 2025, dairy products; or  
30 selling dairy products that the person has manufactured to purchasers  
31 who either transport in the ordinary course of business the goods out  
32 of state or purchasers who use such dairy products as an ingredient  
33 or component in the manufacturing of a dairy product; as to such  
34 persons the tax imposed is equal to the value of the products  
35 manufactured or the gross proceeds derived from such sales multiplied  
36 by the rate of 0.138 percent. Sellers must keep and preserve records  
37 for the period required by RCW 82.32.070 establishing that the goods  
38 were transported by the purchaser in the ordinary course of business

1 out of this state or sold to a manufacturer for use as an ingredient  
2 or component in the manufacturing of a dairy product.

3 (ii) For the purposes of this subsection (1)(c), "dairy products"  
4 means:

5 (A) Products, not including any marijuana-infused product, that  
6 as of September 20, 2001, are identified in 21 C.F.R., chapter 1,  
7 parts 131, 133, and 135, including by-products from the manufacturing  
8 of the dairy products, such as whey and casein; and

9 (B) Products comprised of not less than seventy percent dairy  
10 products that qualify under (c)(ii)(A) of this subsection, measured  
11 by weight or volume.

12 (iii) The preferential tax rate provided to taxpayers under this  
13 subsection (1)(c) does not apply to sales of dairy products on or  
14 after July 1, 2023, where a dairy product is used by the purchaser as  
15 an ingredient or component in the manufacturing in Washington of a  
16 dairy product;

17 (d)(i) Beginning July 1, (~~2015~~) 2025, fruits or vegetables by  
18 canning, preserving, freezing, processing, or dehydrating fresh  
19 fruits or vegetables, or selling at wholesale fruits or vegetables  
20 manufactured by the seller by canning, preserving, freezing,  
21 processing, or dehydrating fresh fruits or vegetables and sold to  
22 purchasers who transport in the ordinary course of business the goods  
23 out of this state; as to such persons the amount of tax with respect  
24 to such business is equal to the value of the products manufactured  
25 or the gross proceeds derived from such sales multiplied by the rate  
26 of 0.138 percent. Sellers must keep and preserve records for the  
27 period required by RCW 82.32.070 establishing that the goods were  
28 transported by the purchaser in the ordinary course of business out  
29 of this state.

30 (ii) For purposes of this subsection (1)(d), "fruits" and  
31 "vegetables" do not include marijuana, useable marijuana, or  
32 marijuana-infused products;

33 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or  
34 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as  
35 to such persons the amount of tax with respect to the business is  
36 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel  
37 feedstock manufactured, multiplied by the rate of 0.138 percent; and

38 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such  
39 persons the amount of tax with respect to the business is equal to

1 the value of wood biomass fuel manufactured, multiplied by the rate  
2 of 0.138 percent.

3 (2) Upon every person engaging within this state in the business  
4 of splitting or processing dried peas; as to such persons the amount  
5 of tax with respect to such business is equal to the value of the  
6 peas split or processed, multiplied by the rate of 0.138 percent.

7 (3) Upon every nonprofit corporation and nonprofit association  
8 engaging within this state in research and development, as to such  
9 corporations and associations, the amount of tax with respect to such  
10 activities is equal to the gross income derived from such activities  
11 multiplied by the rate of 0.484 percent.

12 (4) Upon every person engaging within this state in the business  
13 of slaughtering, breaking and/or processing perishable meat products  
14 and/or selling the same at wholesale only and not at retail; as to  
15 such persons the tax imposed is equal to the gross proceeds derived  
16 from such sales multiplied by the rate of 0.138 percent.

17 (5) Upon every person engaging within this state in the business  
18 of acting as a travel agent or tour operator; as to such persons the  
19 amount of the tax with respect to such activities is equal to the  
20 gross income derived from such activities multiplied by the rate of  
21 0.275 percent.

22 (6) Upon every person engaging within this state in business as  
23 an international steamship agent, international customs house broker,  
24 international freight forwarder, vessel and/or cargo charter broker  
25 in foreign commerce, and/or international air cargo agent; as to such  
26 persons the amount of the tax with respect to only international  
27 activities is equal to the gross income derived from such activities  
28 multiplied by the rate of 0.275 percent.

29 (7) Upon every person engaging within this state in the business  
30 of stevedoring and associated activities pertinent to the movement of  
31 goods and commodities in waterborne interstate or foreign commerce;  
32 as to such persons the amount of tax with respect to such business is  
33 equal to the gross proceeds derived from such activities multiplied  
34 by the rate of 0.275 percent. Persons subject to taxation under this  
35 subsection are exempt from payment of taxes imposed by chapter 82.16  
36 RCW for that portion of their business subject to taxation under this  
37 subsection. Stevedoring and associated activities pertinent to the  
38 conduct of goods and commodities in waterborne interstate or foreign  
39 commerce are defined as all activities of a labor, service or  
40 transportation nature whereby cargo may be loaded or unloaded to or

1 from vessels or barges, passing over, onto or under a wharf, pier, or  
2 similar structure; cargo may be moved to a warehouse or similar  
3 holding or storage yard or area to await further movement in import  
4 or export or may move to a consolidation freight station and be  
5 stuffed, unstuffed, containerized, separated or otherwise segregated  
6 or aggregated for delivery or loaded on any mode of transportation  
7 for delivery to its consignee. Specific activities included in this  
8 definition are: Wharfage, handling, loading, unloading, moving of  
9 cargo to a convenient place of delivery to the consignee or a  
10 convenient place for further movement to export mode; documentation  
11 services in connection with the receipt, delivery, checking, care,  
12 custody and control of cargo required in the transfer of cargo;  
13 imported automobile handling prior to delivery to consignee; terminal  
14 stevedoring and incidental vessel services, including but not limited  
15 to plugging and unplugging refrigerator service to containers,  
16 trailers, and other refrigerated cargo receptacles, and securing ship  
17 hatch covers.

18 (8) Upon every person engaging within this state in the business  
19 of disposing of low-level waste, as defined in RCW 43.145.010; as to  
20 such persons the amount of the tax with respect to such business is  
21 equal to the gross income of the business, excluding any fees imposed  
22 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

23 If the gross income of the taxpayer is attributable to activities  
24 both within and without this state, the gross income attributable to  
25 this state must be determined in accordance with the methods of  
26 apportionment required under RCW 82.04.460.

27 (9) Upon every person engaging within this state as an insurance  
28 producer or title insurance agent licensed under chapter 48.17 RCW or  
29 a surplus line broker licensed under chapter 48.15 RCW; as to such  
30 persons, the amount of the tax with respect to such licensed  
31 activities is equal to the gross income of such business multiplied  
32 by the rate of 0.484 percent.

33 (10) Upon every person engaging within this state in business as  
34 a hospital, as defined in chapter 70.41 RCW, that is operated as a  
35 nonprofit corporation or by the state or any of its political  
36 subdivisions, as to such persons, the amount of tax with respect to  
37 such activities is equal to the gross income of the business  
38 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
39 percent thereafter.

1           (11)(a) Beginning October 1, 2005, upon every person engaging  
2 within this state in the business of manufacturing commercial  
3 airplanes, or components of such airplanes, or making sales, at  
4 retail or wholesale, of commercial airplanes or components of such  
5 airplanes, manufactured by the seller, as to such persons the amount  
6 of tax with respect to such business is, in the case of  
7 manufacturers, equal to the value of the product manufactured and the  
8 gross proceeds of sales of the product manufactured, or in the case  
9 of processors for hire, equal to the gross income of the business,  
10 multiplied by the rate of:

11           (i) 0.4235 percent from October 1, 2005, through June 30, 2007;  
12 and

13           (ii) 0.2904 percent beginning July 1, 2007.

14           (b) Beginning July 1, 2008, upon every person who is not eligible  
15 to report under the provisions of (a) of this subsection (11) and is  
16 engaging within this state in the business of manufacturing tooling  
17 specifically designed for use in manufacturing commercial airplanes  
18 or components of such airplanes, or making sales, at retail or  
19 wholesale, of such tooling manufactured by the seller, as to such  
20 persons the amount of tax with respect to such business is, in the  
21 case of manufacturers, equal to the value of the product manufactured  
22 and the gross proceeds of sales of the product manufactured, or in  
23 the case of processors for hire, be equal to the gross income of the  
24 business, multiplied by the rate of 0.2904 percent.

25           (c) For the purposes of this subsection (11), "commercial  
26 airplane" and "component" have the same meanings as provided in RCW  
27 82.32.550.

28           (d) In addition to all other requirements under this title, a  
29 person reporting under the tax rate provided in this subsection (11)  
30 must file a complete annual report with the department under RCW  
31 82.32.534.

32           (e)(i) Except as provided in (e)(ii) of this subsection (11),  
33 this subsection (11) does not apply on and after July 1, 2040.

34           (ii) With respect to the manufacturing of commercial airplanes or  
35 making sales, at retail or wholesale, of commercial airplanes, this  
36 subsection (11) does not apply on and after July 1st of the year in  
37 which the department makes a determination that any final assembly or  
38 wing assembly of any version or variant of a commercial airplane that  
39 is the basis of a siting of a significant commercial airplane  
40 manufacturing program in the state under RCW 82.32.850 has been sited



1 outside the state of Washington. This subsection (11)(e)(ii) only  
2 applies to the manufacturing or sale of commercial airplanes that are  
3 the basis of a siting of a significant commercial airplane  
4 manufacturing program in the state under RCW 82.32.850.

5 (12)(a) Until July 1, 2024, upon every person engaging within  
6 this state in the business of extracting timber or extracting for  
7 hire timber; as to such persons the amount of tax with respect to the  
8 business is, in the case of extractors, equal to the value of  
9 products, including by-products, extracted, or in the case of  
10 extractors for hire, equal to the gross income of the business,  
11 multiplied by the rate of 0.4235 percent from July 1, 2006, through  
12 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,  
13 2024.

14 (b) Until July 1, 2024, upon every person engaging within this  
15 state in the business of manufacturing or processing for hire: (i)  
16 Timber into timber products or wood products; or (ii) timber products  
17 into other timber products or wood products; as to such persons the  
18 amount of the tax with respect to the business is, in the case of  
19 manufacturers, equal to the value of products, including by-products,  
20 manufactured, or in the case of processors for hire, equal to the  
21 gross income of the business, multiplied by the rate of 0.4235  
22 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent  
23 from July 1, 2007, through June 30, 2024.

24 (c) Until July 1, 2024, upon every person engaging within this  
25 state in the business of selling at wholesale: (i) Timber extracted  
26 by that person; (ii) timber products manufactured by that person from  
27 timber or other timber products; or (iii) wood products manufactured  
28 by that person from timber or timber products; as to such persons the  
29 amount of the tax with respect to the business is equal to the gross  
30 proceeds of sales of the timber, timber products, or wood products  
31 multiplied by the rate of 0.4235 percent from July 1, 2006, through  
32 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,  
33 2024.

34 (d) Until July 1, 2024, upon every person engaging within this  
35 state in the business of selling standing timber; as to such persons  
36 the amount of the tax with respect to the business is equal to the  
37 gross income of the business multiplied by the rate of 0.2904  
38 percent. For purposes of this subsection (12)(d), "selling standing  
39 timber" means the sale of timber apart from the land, where the buyer  
40 is required to sever the timber within thirty months from the date of

1 the original contract, regardless of the method of payment for the  
2 timber and whether title to the timber transfers before, upon, or  
3 after severance.

4 (e) For purposes of this subsection, the following definitions  
5 apply:

6 (i) "Biocomposite surface products" means surface material  
7 products containing, by weight or volume, more than fifty percent  
8 recycled paper and that also use nonpetroleum-based phenolic resin as  
9 a bonding agent.

10 (ii) "Paper and paper products" means products made of interwoven  
11 cellulosic fibers held together largely by hydrogen bonding. "Paper  
12 and paper products" includes newsprint; office, printing, fine, and  
13 pressure-sensitive papers; paper napkins, towels, and toilet tissue;  
14 kraft bag, construction, and other kraft industrial papers;  
15 paperboard, liquid packaging containers, containerboard, corrugated,  
16 and solid-fiber containers including linerboard and corrugated  
17 medium; and related types of cellulosic products containing  
18 primarily, by weight or volume, cellulosic materials. "Paper and  
19 paper products" does not include books, newspapers, magazines,  
20 periodicals, and other printed publications, advertising materials,  
21 calendars, and similar types of printed materials.

22 (iii) "Recycled paper" means paper and paper products having  
23 fifty percent or more of their fiber content that comes from  
24 postconsumer waste. For purposes of this subsection (12)(e)(iii),  
25 "postconsumer waste" means a finished material that would normally be  
26 disposed of as solid waste, having completed its life cycle as a  
27 consumer item.

28 (iv) "Timber" means forest trees, standing or down, on privately  
29 or publicly owned land. "Timber" does not include Christmas trees  
30 that are cultivated by agricultural methods or short-rotation  
31 hardwoods as defined in RCW 84.33.035.

32 (v) "Timber products" means:

33 (A) Logs, wood chips, sawdust, wood waste, and similar products  
34 obtained wholly from the processing of timber, short-rotation  
35 hardwoods as defined in RCW 84.33.035, or both;

36 (B) Pulp, including market pulp and pulp derived from recovered  
37 paper or paper products; and

38 (C) Recycled paper, but only when used in the manufacture of  
39 biocomposite surface products.

1 (vi) "Wood products" means paper and paper products; dimensional  
2 lumber; engineered wood products such as particleboard, oriented  
3 strand board, medium density fiberboard, and plywood; wood doors;  
4 wood windows; and biocomposite surface products.

5 (f) Except for small harvesters as defined in RCW 84.33.035, a  
6 person reporting under the tax rate provided in this subsection (12)  
7 must file a complete annual survey with the department under RCW  
8 82.32.585.

9 (13) Upon every person engaging within this state in inspecting,  
10 testing, labeling, and storing canned salmon owned by another person,  
11 as to such persons, the amount of tax with respect to such activities  
12 is equal to the gross income derived from such activities multiplied  
13 by the rate of 0.484 percent.

14 (14)(a) Upon every person engaging within this state in the  
15 business of printing a newspaper, publishing a newspaper, or both,  
16 the amount of tax on such business is equal to the gross income of  
17 the business multiplied by the rate of 0.2904 percent.

18 (b) A person reporting under the tax rate provided in this  
19 subsection (14) must file a complete annual report with the  
20 department under RCW 82.32.534.

21 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of  
23 the state government and its existing public institutions, and takes  
24 effect July 1, 2015.

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