
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1965.2/25 2nd draft

ATTY/TYPIST: CL:eab

BRIEF DESCRIPTION: Creating fairness in Washington's tax by imposing
a tax on select financial intangible assets.

1 AN ACT Relating to creating fairness in Washington's tax code to
2 support Washington families and fund vital investments in K-12
3 schools by imposing a tax on select financial intangible assets
4 valued at more than \$50,000,000; amending RCW 82.32.160, 43.135.034,
5 and 82.32.655; adding a new Title to the Revised Code of Washington
6 to be codified as Title 84A RCW; creating new sections; and
7 prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** INTENT. To help meet the state's paramount
10 duty of amply providing every child in the state with an education,
11 the legislature intends to levy a tax of \$8 on every \$1,000 of the
12 true and fair value of financial intangible assets, such as publicly
13 traded corporate stocks. The legislature intends to exempt certain
14 assets from the tax including, but not limited to, the first
15 \$50,000,000 in true and fair value of taxable assets, ownership
16 interests in and stocks of privately held companies, pensions, 529
17 education savings accounts, and retirement accounts. The legislature
18 intends for revenues to be dedicated to the education legacy trust
19 account for the support of common schools, expanding access to higher
20 education, investing in early learning and child care programs, and
21 supporting other educational improvement efforts.

1 The legislature finds that funding common schools, early
2 learning, and higher education programs is central to building a
3 strong Washington. As everyday costs rise, the demand for basic needs
4 rises, and the certainty of federal funds diminishes, it is more
5 important than ever that our tax structure becomes more fair and
6 sustainable.

7 Washington's tax system remains the second most regressive in the
8 nation as it asks those with the least to pay the most as a
9 percentage of their income. Low-income Washingtonians pay at least
10 three times more in state and local taxes as a percentage of their
11 income than the state's highest-income households.

12 The legislature finds the levying of this tax necessary for the
13 support of the state government and its existing public institutions.

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

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

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

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

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

28 (5) "Domicile" means:

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

31 (b) For purposes of an artificial person:

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

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

36 (6) "Financial intangible assets" means cash and cash
37 equivalents; financial investments such as annuities, publicly traded
38 bonds, treasury bills, mutual funds, exchange traded funds, publicly
39 traded stocks, publicly traded options, futures contracts,

1 commodities contracts, put and call options, certificates of interest
2 in gold and other precious metals or gems, and other similar
3 investments; units of ownership in a subchapter K entity; units of
4 ownership and stock in a subchapter S entity; and other similar
5 intangible assets.

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

8 (8) "Nonfinancial intangible assets" means all intangible
9 property other than financial intangible assets, such as trademarks,
10 trade names, brand names, patents, copyrights, trade secrets,
11 licenses, permits, core deposits of financial institutions,
12 noncompete agreements, customer lists, patient lists, favorable
13 contracts, favorable financing agreements, reputation, exceptional
14 management, prestige, good name, integrity of a business, private
15 nongovernmental personal service contracts, and private
16 nongovernmental athletic or sports franchises or agreements.

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

18 (10) "Subchapter K entity" means a partnership, including a
19 limited partnership, limited liability partnership, limited liability
20 limited partnership, limited liability company, joint venture, or any
21 other entity subject to subchapter K of the internal revenue code, 26
22 U.S.C. Secs. 701 through 761, including a single member limited
23 liability company.

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

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

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

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

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

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

4 (b) For purposes of this subsection:

5 (i) "Control" means a person possesses, directly or indirectly,
6 alone or with one or more close associates, more than 50 percent of
7 the power to sell or otherwise dispose of intangible assets. However,
8 a person is not considered to possess control over assets if their
9 power to sell or dispose is limited to engaging in such transactions
10 on behalf of the owner and the person has a fiduciary relationship
11 duty to the owner with respect to such assets.

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

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

16 NEW SECTION. **Sec. 3.** TAX IMPOSED. (1) Beginning January 1,
17 2026, for taxes due in 2027, an intangible assets tax is imposed on
18 each Washington resident. The tax equals \$8 per \$1,000 of the true
19 and fair value of a resident's taxable worldwide intangible assets.

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

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

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

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

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

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

37 (4) The tax imposed in this section does not apply to a resident
38 based on that person's status as a trustee of a trust, unless that

1 person is also a beneficiary of the trust or holds a general power of
2 appointment over the assets of the trust.

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

8 (b) A grantor of a trust that does not qualify as a grantor trust
9 for federal income tax purposes must nevertheless be treated as the
10 owner of the intangible assets of the trust for purposes of the tax
11 imposed in this section if the grantor's transfer of assets to the
12 trust is treated as an incomplete gift under Title 26 U.S.C. Sec.
13 2511 of the internal revenue code and its accompanying regulations.

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

21 (7) All moneys collected from the intangible assets tax must be
22 deposited into the education legacy trust account created in RCW
23 83.100.230.

24 NEW SECTION. **Sec. 4.** WHEN TAXES AND TAX RETURNS ARE DUE. (1) (a)
25 Except as otherwise provided in this section or RCW 82.32.080, each
26 resident owing tax under this chapter must file, on forms prescribed
27 by the department, a return with the department on or before April
28 15th each year reporting the true and fair value of that person's
29 taxable worldwide intangible assets for the immediate preceding
30 calendar year, and such other information the department determines
31 necessary to administer the tax imposed under this chapter.

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

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

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

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

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

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

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

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

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

36 (b) The department must waive the penalty imposed under this
37 subsection if:

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

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

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

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

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

(1) Up to \$50,000,000 of a taxpayer's financial intangible assets not exempt under subsections (2) through (13) of this section. A taxpayer may only exempt an asset, under this subsection (1), in its entirety from the tax imposed under this chapter. The department must disallow the exemption under this subsection (1) of any asset if such exemption would result in a taxpayer exempting any combination of more than \$50,000,000 of assets from the tax imposed under this chapter for the tax year. A Washington resident claiming an exemption under this subsection (1) must identify each asset, along with the asset's true and fair value as of December 31st of the tax year, for which they are claiming the exemption in a form and manner prescribed by the department. For purposes of this exemption, both spouses or state registered domestic partners are considered to be one taxpayer. If the department authorizes the filing of separate returns for a tax year, each spouse or state registered domestic partner may exempt up to \$25,000,000 of their financial intangible assets under this subsection (1) for that tax year;

(2) Cash and cash equivalents;

(3) Any of the following financial investments:

(a) Annuities;

(b) Publicly traded options;

(c) Futures contracts;

(d) Commodities contracts;

(e) Put and call options;

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

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

- (4) Units of ownership in a subchapter K entity;
- (5) Units of ownership and stock in a subchapter S entity;
- (6) Any financial intangible assets held under a retirement savings account under Title 26 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered annuity or custodial account described in Title 26 U.S.C. Sec. 403(b) of the internal revenue code, a deferred compensation plan under Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an individual retirement account or individual retirement annuity described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a Roth individual retirement account described in Title 26 U.S.C. Sec. 408A of the internal revenue code, an employee defined contribution program, an employee defined benefit plan, or a similar retirement savings vehicle, whether foreign or domestic, that penalizes withdrawals until the legal or beneficial owner reaches a certain age;
- (7) Nonfinancial intangible assets;
- (8) Worldwide intangible assets of artificial persons. However, the exemption provided in this subsection (8) does not affect the computation of the true and fair value of a natural person's worldwide intangible assets;
- (9) Any obligations or evidences of debt of the United States and obligations of United States government agencies and corporations established by acts of the congress of the United States to the extent required by federal law to be exempt from taxation by the states, including treasury bills;
- (10) Any obligations or evidences of debt of the state of Washington and its agencies, instrumentalities, political subdivisions, and municipal corporations, which include municipal bonds;
- (11) Any stock of the federal reserve bank, the government national mortgage association, the federal national mortgage association, and other corporations and associations established by acts of the congress of the United States;
- (12) Any property subject to ad valorem taxation under RCW 84.36.005; and
- (13) Any financial intangible assets held under a tuition savings account or prepaid tuition plan, as defined under Title 26 U.S.C. Sec. 529 of the internal revenue code, a Coverdell education savings account, also known as an education individual retirement account, under Title 26 U.S.C. Sec. 530 of the internal revenue code, or a

1 similar vehicle providing federal tax savings to pay a legal or
2 beneficial owner's qualified education expenses.

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

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

11 (3) For purposes of this section, a similar tax does not include
12 an estate tax, inheritance tax, gift tax, net income tax, business
13 activity tax including a gross earnings tax or gross receipts tax,
14 activity tax, or other tax similar to the aforementioned taxes. A tax
15 on the value of intangible property may be considered to be a similar
16 intangible assets tax even though taxpayers are allowed a deduction
17 for their liabilities in computing the tax.

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

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

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

32 (a) The individual jointly filed a return under this chapter for
33 a taxable year;

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

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

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

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

10 (4) If an individual seeking relief under this section
11 establishes that he or she did not know, and had no reason to know,
12 the extent of such understatement, then such individual must be
13 relieved of liability for tax not properly paid, including penalties
14 and interest, for such taxable year to the extent that such liability
15 is attributable to the portion of such understatement of which such
16 individual did not know and had no reason to know.

17 (5) An individual seeking relief under this section has the
18 burden of proof with respect to establishing the portion of any
19 deficiency allocable to such individual and the portion solely
20 allocable to the individual's current or former spouse or state
21 registered domestic partner.

22 (6)(a) Notwithstanding any other provision of this section, an
23 individual seeking relief under this section may not seek relief for
24 taxes on intangible assets derived from disqualified assets. For the
25 purposes of this subsection, "disqualified asset" means any asset or
26 right to an asset transferred between spouses or state registered
27 domestic partners required to jointly file a return under this
28 chapter if the principal purpose of the transfer was the avoidance of
29 tax.

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

36 (c) The presumption under (b) of this subsection (6) does not
37 apply to any transfer pursuant to a decree of divorce, dissolution of
38 a domestic partnership, separate maintenance action, or a written
39 instrument incident to such action, or to any transfer that an

1 individual establishes did not have tax avoidance as its principal
2 purpose.

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

10 (8) Any relief granted under this section may not result in an
11 increase in the exemption amount under section 6(1) of this act.
12 Nothing in this section shall be construed to permit individuals
13 required to jointly file a return under this chapter to claim a
14 combined exemption under section 6(1) of this act exceeding the limit
15 established in section 6(1) of this act.

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

20 (10) The department may by rule provide a method or methods for
21 allocating assets between individuals required to jointly file
22 returns under this chapter in cases where one of the individuals is
23 granted relief under this section. The department may also by rule
24 provide substantiation requirements for an individual to establish
25 his or her eligibility for relief under this section.

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

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

31 (1) Any person having been issued a notice of additional taxes,
32 delinquent taxes, interest, or penalties assessed by the department,
33 may within ~~((thirty))~~ 30 days after the issuance of the original
34 notice of the amount thereof or within the period covered by any
35 extension of the due date thereof granted by the department petition
36 the department in writing for a correction of the amount of the
37 assessment, and a conference for examination and review of the
38 assessment. The petition shall set forth the reasons why the
39 correction should be granted and the amount of the tax, interest, or

penalties, which the petitioner believes to be due. The department shall promptly consider the petition and may grant or deny it. If denied, the petitioner shall be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department shall fix the time and place therefor and notify the petitioner thereof by mail or electronically as provided in RCW 82.32.135. After the conference the department may make such determination as may appear to it to be just and lawful and shall mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135. If no such petition is filed within the ~~((thirty))~~ 30-day period the assessment covered by the notice shall become final.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The location where work is performed; and

(f) Other relevant factors.

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

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

(b) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.04 RCW by disguising income received, or otherwise avoiding tax on income, from a person that is not affiliated with the

1 taxpayer from business activities that would be taxable in Washington
2 by moving that income to another entity that would not be taxable in
3 Washington; ~~((and))~~

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

10 (d) Arrangements through which a taxpayer attempts to avoid tax
11 under chapter 84A.--- RCW (the new chapter created in section 17 of
12 this act) through intentional deception, such as by concealing assets
13 or evidence of the location of the taxpayer's domicile in this state,
14 by transferring assets prior to December 31st when the taxpayer
15 effectively retained control of the assets, or by effectively
16 converting taxable assets into nontaxable assets prior to December
17 31st when the taxpayer engages in a substantially offsetting
18 transaction. This subsection (3)(d) does not apply to substantial
19 intangible assets tax valuation understatements subject to the
20 penalty in section 10 of this act.

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

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

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

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

1 NEW SECTION. **Sec. 15.** 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. 16.** 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. 17.** CODIFICATION DIRECTION. Sections 1
9 through 8 and 10 through 12 of this act constitute a new chapter in a
10 new title to be codified as Title 84A RCW.

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

13 NEW SECTION. **Sec. 19.** NECESSITY OF ACT. This act is necessary
14 for the support of the state government and its existing public
15 institutions.

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