

RCW 82.04.4281 Deductions—Investments, dividends, interest on loans. (Effective until January 1, 2026.) (1) In computing tax there may be deducted from the measure of tax:

- (a) Amounts derived from investments;
- (b) Amounts derived as dividends or distributions from the capital account by a parent from its subsidiary entities; and
- (c) Amounts derived from interest on loans between subsidiary entities and a parent entity or between subsidiaries of a common parent entity, but only if the total investment and loan income is less than five percent of gross receipts of the business annually.

(2) The following are not deductible under subsection (1)(a) of this section:

(a) Amounts received from loans, except as provided in subsection (1)(c) of this section, or the extension of credit to another, revolving credit arrangements, installment sales, the acceptance of payment over time for goods or services, or any of the foregoing that have been transferred by the originator of the same to an affiliate of the transferor; or

(b) Amounts received by a banking, lending, or security business.

(3) The definitions in this subsection apply only to this section.

(a) "Banking business" means a person engaging in business as a national or state-chartered bank, a mutual savings bank, a savings and loan association, a trust company, an alien bank, a foreign bank, a credit union, a stock savings bank, or a similar entity that is chartered under Title *30, 31, 32, or 33 RCW, or organized under Title 12 U.S.C.

(b) "Lending business" means a person engaged in the business of making secured or unsecured loans of money, or extending credit, and (i) more than one-half of the person's gross income is earned from such activities and (ii) more than one-half of the person's total expenditures are incurred in support of such activities.

(c) The terms "loan" and "extension of credit" do not include ownership of or trading in publicly traded debt instruments, or substantially equivalent instruments offered in a private placement.

(d) "Security business" means a person, other than an issuer, who is engaged in the business of effecting transactions in securities as a broker, dealer, or broker-dealer, as those terms are defined in the securities act of Washington, chapter 21.20 RCW, or the federal securities act of 1933. "Security business" does not include any company excluded from the definition of broker or dealer under the federal investment company act of 1940 or any entity that is not an investment company by reason of sections 3(c)(1) and 3(c)(3) through 3(c)(14) thereof. [2007 c 54 s 9; 2002 c 150 s 2; 1980 c 37 s 2. Formerly RCW 82.04.430(1).]

***Reviser's note:** Title 30 RCW was recodified and/or repealed pursuant to 2014 c 37, effective January 5, 2015.

Severability—2007 c 54: See note following RCW 82.04.050.

Findings—Intent—2002 c 150: "The legislature finds that the application of the business and occupation tax deductions provided in RCW 82.04.4281 for investment income of persons deemed to be "other financial businesses" has been the subject of uncertainty, and therefore, disagreement and litigation between taxpayers and the state. The legislature further finds that the decision of the state

supreme court in *Simpson Investment Co. v. Department of Revenue* could lead to a restrictive, narrow interpretation of the deductibility of investment income for business and occupation tax purposes. As a result, the legislature directed the department of revenue to work with affected businesses to develop a revision of the statute that would provide certainty and stability for taxpayers and the state. The legislature intends, by adopting this recommended revision of the statute, to provide a positive environment for capital investment in this state, while continuing to treat similarly situated taxpayers fairly." [2002 c 150 s 1.]

Effective date—2002 c 150: "This act takes effect July 1, 2002." [2002 c 150 s 3.]

Finding—Intent on application of deduction—2001 c 320: "The legislature finds that the application of the business and occupation tax deduction provided in RCW 82.04.4281 for investment income of persons other than those engaging in banking, loan, security, or other financial businesses has been the subject of disagreement between taxpayers and the state. Decisions of the supreme court have provided some broad guidelines and principles for interpretation of the deduction provided in RCW 82.04.4281, but these decisions have not provided the certainty and clarity that is desired by taxpayers and the state. Therefore, it is the intent of the legislature to delay change in the manner or extent of taxation of the investment income until definitions or standards can be developed and enacted by the legislature." [2001 c 320 s 18.]

Reviser's note: 2001 c 320 s 19, which was vetoed May 15, 2001, would have implemented the intent in this section.

Report to legislature—2001 c 320: "The department of revenue shall report to the fiscal committees of the legislature by November 30, 2001, on the progress made in working with affected businesses on potential amendments to RCW 82.04.4281 which would clarify the application of RCW 82.04.4281 to other financial businesses." [2001 c 320 s 20.]

Intent—1980 c 37: "The separation of sales tax exemption, use tax exemption, and business and occupation deduction sections into shorter sections is intended to improve the readability and facilitate the future amendment of these sections. This separation shall not change the meaning of any of the exemptions or deductions involved." [1980 c 37 s 1.]

RCW 82.04.4281 Deductions—Investments, dividends, interest on loans—Rules. (Effective January 1, 2026.) (1) In computing tax under this chapter, a person may deduct the following from the measure of tax:

(a) Except as provided in subsection (2) of this section, amounts derived from investments that are incidental to the main purpose of the person's business. Investments are incidental to the main purpose of the person's business if the total worldwide gross income derived from such investments is less than five percent of the person's total worldwide gross income of the business annually.

(b) Amounts derived as dividends or distributions from the capital account by a parent from its subsidiary entities.

(c) Amounts derived from interest on loans between subsidiary entities and a parent entity or between subsidiaries of a common parent entity, but only if the total investment and loan income is less than five percent of gross receipts of the business annually.

(2) The following are not deductible under either subsection (1)(a) or (3) of this section, or both:

(a) Amounts received from loans, except as provided in subsection (1)(c) of this section, or the extension of credit to another, revolving credit arrangements, installment sales, the acceptance of payment over time for goods or services, or any of the foregoing that have been transferred by the originator of the same to an affiliate of the transferor; or

(b) Amounts received by a banking, lending, or security business.

(3) Except as provided in subsections (2) and (4) of this section, in computing tax under this chapter, the following persons may deduct from the measure of the tax amounts derived from such person's investments regardless of whether the investments are incidental to the main purpose of the person's business:

(a) Nonprofit organizations;

(b) Collective investment vehicles;

(c) Retirement accounts and recipients of distributions therefrom, to that extent; and

(d) Family investment vehicles and recipients of distributions therefrom, to that extent.

(4) The following are not deductible under subsection (3)(b) of this section:

(a) Amounts derived from investments of persons who are invested in a collective investment vehicle but not themselves a collective investment vehicle;

(b) Amounts received by persons as compensation for services rendered to either the collective investment vehicle or the collective investment vehicle's investors, or both;

(c) Amounts derived from sources other than investments by a collective investment vehicle; or

(d) Amounts derived from factoring.

(5) The department must, consistent with the purpose of this section, adopt rules necessary to implement this section including, but not limited to, rules that provide examples of investment income from personal investments that is not eligible for a deduction under this section by virtue of it not being income from engaging in business and thus not taxable under this chapter. Such rule making must also include examples of the tax treatment of investment income received by persons making certain investments through different types of collective investment vehicles.

(6) The definitions in this subsection apply only to this section.

(a) "Banking business" means a person engaging in business as a national or state-chartered bank, a mutual savings bank, a savings and loan association, a trust company, an alien bank, a foreign bank, a credit union, a stock savings bank, or a similar entity that is chartered under Title *30, 31, 32, or 33 RCW, or organized under Title 12 U.S.C.

(b)(i) "Collective investment vehicle" means a person who meets all the following criteria:

(A) The person's total gross income derived from its investments is at least 90 percent of the person's total worldwide gross income of the business annually;

(B) The person holds title to passive investment assets for the benefit of the person's investors and the investment decisions are made by another person who serves as the collective investment vehicle's manager or advisor; and

(C) The person accepts unrelated persons as its investors.

(ii) A collective investment vehicle may take the form of a mutual fund, collective fund, and any similar investment vehicle whether structured as a limited or general partnership, limited liability company, corporation, trust, or otherwise.

(c) "Family investment vehicle" means:

(i) The estate of any decedent;

(ii) An inter vivos or testamentary trust, provided that the grantor and all beneficiaries are either members of the family as defined in RCW 83.100.046, or nonprofit organizations, or both;

(iii) A qualified tuition program established under the provisions of the internal revenue code section 529; or

(iv) A coverdell education savings account established under the provisions of the internal revenue code section 530.

(d) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of January 1, 2026, or such subsequent date as the department may provide by rule consistent with this chapter.

(e) "Investments" includes, but is not limited to, securities, trading account assets, federal funds, options, futures contracts, forward contracts, notional principal contracts, equities, foreign currency transactions, fixed income instruments, derivative instruments, and commodities.

(f) "Lending business" means a person engaged in the business of making secured or unsecured loans of money, or extending credit, and

(i) more than one-half of the person's gross income is earned from such activities and (ii) more than one-half of the person's total expenditures are incurred in support of such activities.

(g) The terms "loan" and "extension of credit" do not include ownership of or trading in publicly traded debt instruments, or substantially equivalent instruments offered in a private placement.

(h) "Nonprofit organization" has the same meaning as in RCW 82.04.3651.

(i) "Retirement account" means any qualified plan established under any of the provisions of sections 401 through 409, inclusive, of the internal revenue code.

(j) "Security business" means a person, other than an issuer, who is engaged in the business of effecting transactions in securities as a broker, dealer, or broker-dealer, as those terms are defined in the securities act of Washington, chapter 21.20 RCW, or the federal securities act of 1933. "Security business" does not include any company excluded from the definition of broker or dealer under the federal investment company act of 1940 or any entity that is not an investment company by reason of sections 3(c)(1) and 3(c)(3) through 3(c)(14) thereof. [2025 c 420 s 402; 2007 c 54 s 9; 2002 c 150 s 2; 1980 c 37 s 2. Formerly RCW 82.04.430(1).]

***Reviser's note:** Title 30 RCW was recodified and/or repealed pursuant to 2014 c 37, effective January 5, 2015.

Finding—Intent—2025 c 420 s 402: "The legislature finds that the decision of the state supreme court in *Antio, LLC v. Department of Revenue* could lead to uncertainty insofar as it affirms that the business and occupation tax deduction provided in RCW 82.04.4281 for the investment income of persons is only applicable if such income is from investments that are incidental to the main purpose of a person's business, without providing a bright line rule for what constitutes incidental to the main purpose of the person's business. The legislature intends, by adopting this revision of the statute, to avoid uncertainty and provide clarity around what incidental to the main purpose of the business means and, by extension, what income qualifies for the business and occupation tax deduction provided in RCW 82.04.4281 for investment income.

The legislature also intends to make it clear that amounts received by individuals from personal investments are generally not considered amounts received from engaging in business and therefore are not subject to the business and occupation tax. To that end, the legislature directs the department of revenue to provide guidance on what constitutes income from personal investments that are not considered engaging in business and thus not subject to the business and occupation tax.

The legislature further intends to make it clear that nondeductible investment income is subject to the service and other activities business and occupation tax classification and should be apportioned in accordance with RCW 82.04.462." [2025 c 420 s 401.]

Effective date—2025 c 420 ss 114, 201, 301, 401, and 402: See note following RCW 82.32.875.

Tax preference performance statement exemption—Automatic expiration date exemption—Necessity of act—2025 c 420: See notes following RCW 82.04.230.

Severability—2007 c 54: See note following RCW 82.04.050.

Findings—Intent—2002 c 150: "The legislature finds that the application of the business and occupation tax deductions provided in RCW 82.04.4281 for investment income of persons deemed to be "other financial businesses" has been the subject of uncertainty, and therefore, disagreement and litigation between taxpayers and the state. The legislature further finds that the decision of the state supreme court in *Simpson Investment Co. v. Department of Revenue* could lead to a restrictive, narrow interpretation of the deductibility of investment income for business and occupation tax purposes. As a result, the legislature directed the department of revenue to work with affected businesses to develop a revision of the statute that would provide certainty and stability for taxpayers and the state. The legislature intends, by adopting this recommended revision of the statute, to provide a positive environment for capital investment in this state, while continuing to treat similarly situated taxpayers fairly." [2002 c 150 s 1.]

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