

RCW 82.04.440 Credit—Persons taxable on multiple activities.

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), (4), (11), or (12) with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(b) or (12), including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (4), (11), or (12), including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state are allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260 (1), (2), (4), (11), and (12), and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who

are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260(12); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

(e) "Business," "manufacturer," "extractor," and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212 [82.04.217], notwithstanding the use of those terms in the context of describing taxes imposed by other states. [2011 c 2 s 205 (Initiative Measure No. 1107, approved November 2, 2010); 2010 1st sp.s. c 23 s 513. Prior: 2006 c 300 s 8; 2006 c 84 s 6; (2007 c 54 s 10 expired July 22, 2007); 2005 c 301 s 3; prior: 2004 c 174 s 5; 2004 c 24 s 7; 2003 2nd sp.s. c 1 s 6; 1998 c 312 s 9; 1994 c 124 s 4; 1987 2nd ex.s. c 3 s 2; 1985 c 190 s 1; 1981 c 172 s 5; 1967 ex.s. c 149 s 16; 1965 ex.s. c 173 s 12; 1961 c 15 s 82.04.440; prior: 1959 c 211 s 3; 1951 1st ex.s. c 9 s 1; 1950 ex.s. c 5 s 2; 1949 c 228 s 2-A; 1943 c 156 s 3; 1941 c 178 s 3; 1939 c 225 s 3; 1937 c 227 s 3; 1935 c 180 s 6; Rem. Supp. 1949 s 8370-6.]

Findings—Construction—2011 c 2 (Initiative Measure No. 1107):
See notes following RCW 82.08.0293.

Effective date—2010 1st sp.s. c 23: See note following RCW 82.04.4292.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

Contingent expiration date—2007 c 54 s 10: "Section 10 of this act expires if the contingency in section 29 of this act occurs." [2007 c 54 s 31.] The contingency in section 29, chapter 54, Laws of 2007 occurred on December 1, 2006.

Effective dates—Contingent effective date—2006 c 300: See note following RCW 82.04.261.

Effective date—2006 c 84 ss 2-8: See note following RCW 82.04.2404.

Findings—Intent—2006 c 84: See note following RCW 82.04.2404.

Findings—Intent—Effective date—2005 c 301: See notes following RCW 82.04.294.

Effective date—2004 c 174: See note following RCW 82.04.2908.

Intent—Effective date—2004 c 24: See notes following RCW 82.04.2909.

Finding—2003 2nd sp.s. c 1: See note following RCW 82.04.4461.

Effective date—Savings—1998 c 312: See notes following RCW 82.04.332.

Retroactive application—1994 c 124: "Except as otherwise provided in section 6 of this act, section 4 of this act applies retrospectively to all tax reporting periods on or after June 23, 1987." [1994 c 124 s 7.]

Legislative findings and intent—1987 2nd ex.s. c 3: "The legislature finds that the invalidation of the multiple activities exemption contained in RCW 82.04.440 by the United States Supreme Court now requires adjustments to the state's business and occupation tax to achieve constitutional equality between Washington taxpayers who have conducted and will continue to conduct business in interstate and intrastate commerce. It is the intent of chapter 3, Laws of 1987 2nd ex. sess. and sections 4 through 7 of this act to preserve the integrity of Washington's business and occupation tax system and impose only that financial burden upon the state necessary to establish parity in taxation between such taxpayers.

Thus, chapter 3, Laws of 1987 2nd ex. sess. and sections 4 through 7 of this act extends [extend] the system of credits originated in RCW 82.04.440 in 1985 to provide for equal treatment of taxpayers engaging in extracting, manufacturing or selling regardless of the location in which any of such activities occurs. It is further intended that RCW 82.04.440, as amended by section 2, chapter 3, Laws of 1987 2nd ex. sess. and sections 4 through 7 of this act, shall be construed and applied in a manner that will eliminate unconstitutional discrimination between taxpayers and ensure the preservation and collection of revenues from the conduct of multiple activities in which taxpayers in this state may engage." [1994 c 124 s 5; 1987 2nd ex.s. c 3 s 1.]

Application to prior reporting periods—1987 2nd ex.s. c 3: "If it is determined by a court of competent jurisdiction, in a judgment not subject to review, that relief is appropriate for any tax reporting periods before August 11, 1987, in respect to RCW 82.04.440 as it existed before August 11, 1987, it is the intent of the legislature that the credits provided in RCW 82.04.440 as amended by section 2, chapter 3, Laws of 1987 2nd ex. sess. and section 4 of this act shall be applied to such reporting periods and that relief for such periods be limited to the granting of such credits." [1994 c 124 s 6; 1987 2nd ex.s. c 3 s 3.]

Severability—1987 2nd ex.s. c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 2nd ex.s. c 3 s 4.]

Severability—1985 c 190: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 190 s 8.]

Effective dates—1981 c 172: See note following RCW 82.04.240.