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HOUSE BILL 1445

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By Representatives Thompson, Dyer, Morris, Pennington, Linville,  
D. Schmidt, Ogden and Sherstad

Read first time 01/27/97. Referred to Committee on Trade & Economic  
Development.

1 AN ACT Relating to sales and use tax deferrals for high technology  
2 businesses; amending RCW 82.63.010, 82.63.030, and 82.63.045; providing  
3 an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.63.010 and 1995 1st sp.s. c 3 s 12 are each amended  
6 to read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Advanced computing" means technologies used in the designing  
10 and developing of computing hardware and software, including  
11 innovations in designing the full spectrum of hardware from hand-held  
12 calculators to super computers, and peripheral equipment.

13 (2) "Advanced materials" means materials with engineered properties  
14 created through the development of specialized processing and synthesis  
15 technology, including ceramics, high value-added metals, electronic  
16 materials, composites, polymers, and biomaterials.

17 (3) "Applicant" means a person applying for a tax deferral under  
18 this chapter.

1 (4) "Biotechnology" means the application of technologies, such as  
2 recombinant DNA techniques, biochemistry, molecular and cellular  
3 biology, genetics and genetic engineering, cell fusion techniques, and  
4 new bioprocesses, using living organisms, or parts of organisms, to  
5 produce or modify products, to improve plants or animals, to develop  
6 microorganisms for specific uses, to identify targets for small  
7 molecule pharmaceutical development, or to transform biological systems  
8 into useful processes and products or to develop microorganisms for  
9 specific uses.

10 (5) "Department" means the department of revenue.

11 (6) "Electronic device technology" means technologies involving  
12 microelectronics; semiconductors; electronic equipment and  
13 instrumentation; radio frequency, microwave, and millimeter  
14 electronics; optical and optic-electrical devices; and data and digital  
15 communications and imaging devices.

16 (7) "Eligible investment project" means an investment project which  
17 either initiates a new operation, or expands or diversifies a current  
18 operation by expanding, renovating, or equipping an existing facility.  
19 The term includes the acquisition of qualified machinery and equipment  
20 that is a direct replacement for qualified machinery and equipment  
21 acquired as part of the initial investment project. The lessor or  
22 owner of the qualified building is not eligible for a deferral unless  
23 the underlying ownership of the buildings, machinery, and equipment  
24 vests exclusively in the same person, or unless the lessor by written  
25 contract agrees to pass the economic benefit of the deferral to the  
26 lessee in the form of reduced rent payments.

27 (8) "Environmental technology" means assessment and prevention of  
28 threats or damage to human health or the environment, environmental  
29 cleanup, and the development of alternative energy sources.

30 (9) "Investment project" means an investment in qualified buildings  
31 or qualified machinery and equipment, including labor and services  
32 rendered in the planning, installation, and construction or improvement  
33 of the project, and labor and services in respect to installing,  
34 repairing, cleaning, altering, or improving qualified machinery and  
35 equipment.

36 (10) "Person" has the meaning given in RCW 82.04.030.

37 (11) "Pilot scale manufacturing" means design, construction, and  
38 testing of preproduction prototypes and models in the fields of  
39 biotechnology, advanced computing, electronic device technology,

1 advanced materials, and environmental technology other than for  
2 commercial sale. As used in this subsection, "commercial sale"  
3 excludes sales of prototypes or sales for market testing if the total  
4 gross receipts from such sales of the product, service, or process do  
5 not exceed one million dollars.

6 (12) "Qualified buildings" means construction of new structures,  
7 and expansion or renovation of existing structures for the purpose of  
8 increasing floor space or production capacity, where the structures are  
9 used for pilot scale manufacturing or qualified research and  
10 development, including plant offices and other facilities that are an  
11 essential or an integral part of a structure used for pilot scale  
12 manufacturing or qualified research and development. If a building is  
13 used partly for pilot scale manufacturing or qualified research and  
14 development, and partly for other purposes, the applicable tax deferral  
15 shall be determined by apportionment of the costs of construction under  
16 rules adopted by the department.

17 (13) "Qualified machinery and equipment" means fixtures, equipment,  
18 and support facilities that are an integral and necessary part of a  
19 pilot scale manufacturing or qualified research and development  
20 operation, and tangible personal property that becomes an ingredient or  
21 component thereof, including repair and replacement parts with a useful  
22 life of one year or more. "Qualified machinery and equipment"  
23 includes: Computers; software; data processing equipment; laboratory  
24 equipment, instrumentation, and other devices used in a process of  
25 experimentation to develop a new or improved pilot model, plant  
26 process, product, formula, invention, or similar property;  
27 manufacturing components such as belts, pulleys, shafts, and moving  
28 parts; molds, tools, and dies; vats, tanks, and fermenters; operating  
29 structures; and all other equipment used to control, monitor, or  
30 operate the machinery. For purposes of this chapter, qualified  
31 machinery and equipment must be either new to the taxing jurisdiction  
32 of the state or new to the certificate holder, except that used  
33 machinery and equipment may be treated as qualified machinery and  
34 equipment if the certificate holder either brings the machinery and  
35 equipment into Washington or makes a retail purchase of the machinery  
36 and equipment in Washington or elsewhere.

37 (14) "Qualified research and development" means research and  
38 development performed within this state in the fields of advanced

1 computing, advanced materials, biotechnology, electronic device  
2 technology, and environmental technology.

3 (15) "Recipient" means a person receiving a tax deferral under this  
4 chapter.

5 (16) "Research and development" means activities performed to  
6 discover technological information, and technical and nonroutine  
7 activities concerned with translating technological information into  
8 new or improved products, or new or improved biological or  
9 environmental processes, techniques, or formulas~~((, inventions, or~~  
10 ~~software))~~. The term includes exploration of a new use for an existing  
11 drug, device, or biological product if the new use requires separate  
12 licensing by the federal food and drug administration under chapter 21,  
13 C.F.R., as amended. The term does not include adaptation or  
14 duplication of existing products where the products are not  
15 substantially improved by application of the technology, nor does the  
16 term include surveys and studies, social science and humanities  
17 research, market research or testing, quality control, sale promotion  
18 and service, computer software developed for internal administrative  
19 use, and research in areas such as improved style, taste, and seasonal  
20 design.

21 **Sec. 2.** RCW 82.63.030 and 1994 sp.s. c 5 s 5 are each amended to  
22 read as follows:

23 (1) Except as provided in subsections (2) and (3) of this section,  
24 the department shall issue a sales and use tax deferral certificate for  
25 state and local sales and use taxes due under chapters 82.08, 82.12,  
26 and 82.14 RCW on each eligible investment project. The certificate  
27 shall be valid for a period of nine calendar years following the year  
28 in which the certificate was approved.

29 (2) No certificate may be issued for an investment project that has  
30 already received a deferral under chapter 82.60 or 82.61 RCW or this  
31 chapter, except that an investment project for qualified research and  
32 development that has already received a deferral may also receive an  
33 additional deferral certificate for adapting the investment project for  
34 use in pilot scale manufacturing.

35 (3) ~~((This section shall expire July 1, 2004.))~~ A certificate may  
36 not be issued for an investment project for which an application is  
37 received by the department after June 30, 2004.

1       **Sec. 3.** RCW 82.63.045 and 1995 1st sp.s. c 3 s 13 are each amended  
2 to read as follows:

3       (1) Except as provided in subsection (2) of this section, taxes  
4 deferred under this chapter need not be repaid.

5       (2) If, on the basis of a report under RCW 82.63.020 or other  
6 information, the department finds that an investment project is used  
7 for purposes other than qualified research and development or pilot  
8 scale manufacturing at any time during the calendar year in which the  
9 (~~investment project is certified by the department as having been~~  
10 ~~operationally completed~~) certificate was granted, or at any time  
11 during any of the (~~seven~~) nine succeeding calendar years, a portion  
12 of deferred taxes shall be immediately due according to the following  
13 schedule:

14	Year in which use occurs	% of deferred taxes due
15	1	100%
16	2	<del>((87.5%))</del> <u>100%</u>
17	3	<del>((75%))</del> <u>100%</u>
18	4	<del>((62.5%))</del> <u>87.5%</u>
19	5	<del>((50%))</del> <u>75%</u>
20	6	<del>((37.5%))</del> <u>62.5%</u>
21	7	<del>((25%))</del> <u>50%</u>
22	8	<del>((12.5%))</del> <u>37.5%</u>
23	<u>9</u>	<u>25%</u>
24	<u>10</u>	<u>12.5%</u>

25 The department shall assess interest at the rate provided for  
26 delinquent taxes, but not penalties, retroactively to the date of  
27 deferral.

28       (3) Notwithstanding subsection (2) of this section, deferred taxes  
29 on the following need not be repaid:

30       (a) Machinery and equipment, and sales of or charges made for labor  
31 and services, which at the time of purchase would have qualified for  
32 exemption under RCW 82.08.02565; and

33       (b) Machinery and equipment which at the time of first use would  
34 have qualified for exemption under RCW 82.12.02565.

35       NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 July 1, 1997.

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