
HOUSE BILL 2246

State of Washington

55th Legislature

1997 Regular Session

By Representative Schoesler

Read first time 03/07/97. Referred to Committee on Finance.

1 AN ACT Relating to sales tax exemption of farm machinery and
2 equipment sold to nonresidents; adding a new section to chapter 82.08
3 RCW; prescribing penalties; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
6 to read as follows:

7 (1) The definitions in this subsection apply throughout this
8 section.

9 (a) "Agricultural product" is defined as provided in RCW 82.04.213.

10 (b) "Directly used in a farming operation" means the performance of
11 a function reasonably necessary to the operation of the total farming
12 business, including planting, growing, harvesting, and initial storage
13 of agricultural products, and movement of agricultural products from
14 the place of harvest to the place of initial storage.

15 (c) "Farm machinery and equipment" means machinery and equipment
16 directly used in a farming operation, and includes tangible personal
17 property that becomes an ingredient or component thereof, including
18 repair parts, replacement parts, lubricants, hydraulic oil, and
19 coolants.

1 (d) "Farm machinery and equipment" does not include:

2 (i) Hand tools;

3 (ii) Items used in a manner incidental to farming, such as
4 maintenance and janitorial equipment and supplies;

5 (iii) Items used in any activities other than the actual farming
6 operation, such as office equipment and supplies, and equipment and
7 supplies used in selling or distributing activities; and

8 (iv) Items that become or are intended to become a component of any
9 real property or any improvement or fixture thereto.

10 (2) The tax levied by RCW 82.08.020 does not apply to sales of
11 machinery and equipment directly used in farming, if sold to
12 nonresidents of this state for use outside this state and the purchaser

13 (a) is a bona fide resident of a state, possession, or Province of
14 Canada, other than the state of Washington, and such state, possession,
15 or Province of Canada does not impose a retail sales tax or use tax of
16 three percent or more on similar items of machinery or equipment or, if
17 imposing such a tax, permits Washington residents exemption from
18 otherwise taxable sales of similar machinery and equipment by reason of
19 their residence, and (b) agrees, when requested, to grant the
20 department of revenue access to such records and other forms of
21 verification at his or her place of residence to assure that such
22 purchases are not first used substantially in the state of Washington.

23 (3) Any person claiming exemption under this section must display
24 proof of his or her current nonresident status. Acceptable proof of a
25 nonresident person's status includes one piece of identification such
26 as a valid driver's license from the jurisdiction in which the out-of-
27 state residency is claimed or a valid identification card that has a
28 photograph of the holder and is issued by the out-of-state
29 jurisdiction. The identification must show the holder's residential
30 address and have as one of its legal purposes the establishment of
31 residency in that out-of-state jurisdiction.

32 (4) Nothing in this section requires the vendor to make tax exempt
33 retail sales to nonresidents. A vendor may choose to make sales to
34 nonresidents, collect the sales tax, and remit the amount of sales tax
35 collected to the state as otherwise provided by law. If the vendor
36 chooses to make a sale to a nonresident without collecting the sales
37 tax, the vendor shall, in good faith, examine the proof of
38 nonresidence, determine whether the proof is acceptable under this
39 section, and maintain records for each nontaxable sale that show the

1 type of proof accepted, including any identification numbers, if
2 appropriate, and the expiration date, if any.

3 (5)(a) Any person making fraudulent statements, which includes the
4 offer of fraudulent identification or fraudulently procured
5 identification to a vendor, in order to purchase goods without paying
6 retail sales tax is guilty of perjury. Any person making tax exempt
7 purchases under this section by displaying proof of identification not
8 his or her own, or counterfeit identification, with intent to violate
9 the provisions of this section, is guilty of a misdemeanor and, in
10 addition, shall be liable for the tax and subject to a penalty equal to
11 the greater of one hundred dollars or the tax due on such purchases.

12 (b) Any vendor who makes sales without collecting the tax to a
13 person who does not hold valid identification establishing out-of-state
14 residency, and any vendor who fails to maintain records of sales to
15 nonresidents as provided in this section, shall be personally liable
16 for the amount of tax due. Any vendor who makes sales without
17 collecting the retail sales tax under this section and who has actual
18 knowledge that the purchaser's proof of identification establishing
19 out-of-state residency is fraudulent is guilty of a misdemeanor and, in
20 addition, shall be liable for the tax and subject to a penalty equal to
21 the greater of one thousand dollars or the tax due on such sales. In
22 addition, both the purchaser and the vendor shall be liable for any
23 penalties and interest assessable under chapter 82.32 RCW.

24 NEW SECTION. **Sec. 2.** This act takes effect October 1, 1997.

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