

SB 5725 - H AMD 515

By Representative Gombosky

ADOPTED 04/27/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the welfare of
4 the people of the state of Washington is positively impacted through
5 the encouragement and expansion of family wage employment in the
6 state's manufacturing industries. The legislature further finds that
7 targeting tax incentives to focus on key industry clusters is an
8 important business climate strategy. The Washington competitiveness
9 council has recognized the semiconductor industry, which includes the
10 design and manufacture of semiconductor materials, as one of the
11 state's existing key industry clusters. Businesses in this cluster in
12 the state of Washington are facing increasing pressure to expand
13 elsewhere. The sales and use tax exemptions for manufacturing
14 machinery and equipment enacted by the 1995 legislature improved
15 Washington's ability to compete with other states for manufacturing
16 investment. However, additional incentives for the semiconductor
17 cluster need to be put in place in recognition of the unique forces and
18 global issues involved in business decisions that key businesses in
19 this cluster face.

20 Therefore, the legislature intends to enact comprehensive tax
21 incentives for the semiconductor cluster that address activities of the
22 lead product industry and its suppliers and customers. Tax incentives
23 for the semiconductor cluster are important in both retention and
24 expansion of existing business and attraction of new businesses, all of
25 which will strengthen this cluster. The legislature also recognizes
26 that the semiconductor industry involves major investment that results
27 in significant construction projects, which will create jobs and bring
28 many indirect benefits to the state during the construction phase.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
2 to read as follows:

3 (1) The tax imposed by RCW 82.04.240(2) does not apply to any
4 person in respect to the manufacturing of semiconductor microchips.

5 (2) For the purposes of this section:

6 (a) "Manufacturing semiconductor microchips" means taking raw
7 polished semiconductor wafers and embedding integrated circuits on the
8 wafers using processes such as masking, etching, and diffusion; and

9 (b) "Integrated circuit" means a set of microminiaturized,
10 electronic circuits.

11 (3) This section expires nine years after the effective date of
12 this act.

13 **Sec. 3.** RCW 82.04.240 and 1998 c 312 s 3 are each amended to read
14 as follows:

15 (1) Upon every person ((~~except persons taxable under RCW 82.04.260~~
16 ~~(1), (2), (4), (5), or (6))~~ engaging within this state in business as
17 a manufacturer, ~~except persons taxable as manufacturers under other~~
18 provisions of this chapter; as to such persons the amount of the tax
19 with respect to such business shall be equal to the value of the
20 products, including byproducts, manufactured, multiplied by the rate of
21 0.484 percent.

22 (2) Upon every person engaging within this state in the business of
23 manufacturing semiconductor materials, as to such persons the amount of
24 tax with respect to such business shall, in the case of manufacturers,
25 be equal to the value of the product manufactured, or, in the case of
26 processors for hire, be equal to the gross income of the business,
27 multiplied by the rate of 0.275 percent. For the purposes of this
28 subsection "semiconductor materials" means silicon crystals, silicon
29 ingots, raw polished semiconductor wafers, compound semiconductors,
30 integrated circuits, and microchips. This subsection (2) expires
31 twelve years after the effective date of this act.

32 (3) The measure of the tax is the value of the products, including
33 byproducts, so manufactured regardless of the place of sale or the fact
34 that deliveries may be made to points outside the state.

1 **Sec. 4.** RCW 82.04.280 and 1998 c 343 s 3 are each amended to read
2 as follows:

3 Upon every person engaging within this state in the business of:

4 (1) Printing, and of publishing newspapers, periodicals, or magazines;

5 (2) building, repairing or improving any street, place, road, highway,

6 easement, right of way, mass public transportation terminal or parking

7 facility, bridge, tunnel, or trestle which is owned by a municipal

8 corporation or political subdivision of the state or by the United

9 States and which is used or to be used, primarily for foot or vehicular

10 traffic including mass transportation vehicles of any kind and

11 including any readjustment, reconstruction or relocation of the

12 facilities of any public, private or cooperatively owned utility or

13 railroad in the course of such building, repairing or improving, the

14 cost of which readjustment, reconstruction, or relocation, is the

15 responsibility of the public authority whose street, place, road,

16 highway, easement, right of way, mass public transportation terminal or

17 parking facility, bridge, tunnel, or trestle is being built, repaired

18 or improved; (3) extracting for hire or processing for hire, except

19 persons taxable as processors for hire under another section of this

20 chapter; (4) operating a cold storage warehouse or storage warehouse,

21 but not including the rental of cold storage lockers; (5) representing

22 and performing services for fire or casualty insurance companies as an

23 independent resident managing general agent licensed under the

24 provisions of RCW 48.05.310; (6) radio and television broadcasting,

25 excluding network, national and regional advertising computed as a

26 standard deduction based on the national average thereof as annually

27 reported by the Federal Communications Commission, or in lieu thereof

28 by itemization by the individual broadcasting station, and excluding

29 that portion of revenue represented by the out-of-state audience

30 computed as a ratio to the station's total audience as measured by the

31 100 micro-volt signal strength and delivery by wire, if any; (7)

32 engaging in activities which bring a person within the definition of

33 consumer contained in RCW 82.04.190(6); as to such persons, the amount

34 of tax on such business shall be equal to the gross income of the

35 business multiplied by the rate of 0.484 percent.

36 As used in this section, "cold storage warehouse" means a storage

37 warehouse used to store fresh and/or frozen perishable fruits or

1 vegetables, meat, seafood, dairy products, or fowl, or any combination
2 thereof, at a desired temperature to maintain the quality of the
3 product for orderly marketing.

4 As used in this section, "storage warehouse" means a building or
5 structure, or any part thereof, in which goods, wares, or merchandise
6 are received for storage for compensation, except field warehouses,
7 fruit warehouses, fruit packing plants, warehouses licensed under
8 chapter 22.09 RCW, public garages storing automobiles, railroad freight
9 sheds, docks and wharves, and "self-storage" or "mini storage"
10 facilities whereby customers have direct access to individual storage
11 areas by separate entrance. "Storage warehouse" does not include a
12 building or structure, or that part of such building or structure, in
13 which an activity taxable under RCW 82.04.272 is conducted.

14 As used in this section, "periodical or magazine" means a printed
15 publication, other than a newspaper, issued regularly at stated
16 intervals at least once every three months, including any supplement or
17 special edition of the publication.

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

20 (1) The tax levied by RCW 82.08.020 shall not apply to charges made
21 for labor and services rendered in respect to the constructing of new
22 buildings used for the manufacturing of semiconductor materials, to
23 sales of tangible personal property that will be incorporated as an
24 ingredient or component of such buildings during the course of the
25 constructing, or to labor and services rendered in respect to
26 installing, during the course of constructing, building fixtures not
27 otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The
28 exemption is available only when the buyer provides the seller with an
29 exemption certificate in a form and manner prescribed by the
30 department. The seller shall retain a copy of the certificate for the
31 seller's files.

32 (2) To be eligible under this section the manufacturer or processor
33 for hire must meet the following requirements for an eight-year period,
34 such period beginning the day the new building commences commercial
35 production, or a portion of tax otherwise due shall be immediately due
36 and payable pursuant to subsection (3) of this section:

1 (a) The manufacturer or processor for hire must maintain at least
2 seventy-five percent of full employment at the new building for which
3 the exemption under this section is claimed.

4 (b) Before commencing commercial production at a new facility the
5 manufacturer or processor for hire must meet with the department to
6 review projected employment levels in the new buildings. The
7 department, using information provided by the taxpayer, shall make a
8 determination of the number of positions that would be filled at full
9 employment. This number shall be used throughout the eight-year period
10 to determine whether any tax is to be repaid. This information is not
11 subject to the confidentiality provisions of RCW 82.32.330 and may be
12 disclosed to the public upon request.

13 (c) In those situations where a production building in existence on
14 the effective date of this section will be phased out of operation
15 during which time employment at the new building at the same site is
16 increased, the manufacturer or processor for hire shall maintain
17 seventy-five percent of full employment at the manufacturing site
18 overall.

19 (d) No application is necessary for the tax exemption. The person
20 is subject to all the requirements of chapter 82.32 RCW. A person
21 taking the exemption under this section must report as required under
22 section 11 of this act.

23 (3) If the employment requirement is not met for any one calendar
24 year, one-eighth of the exempt sales and use taxes shall be due and
25 payable by April 1st of the following year. The department shall
26 assess interest to the date the tax was imposed, but not penalties, on
27 the taxes for which the person is not eligible.

28 (4) The exemption applies to new buildings, or parts of buildings,
29 that are used exclusively in the manufacturing of semiconductor
30 materials, including the storage of raw materials and finished product.

31 (5) For the purposes of this section:

32 (a) "Commencement of commercial production" is deemed to have
33 occurred when the equipment and process qualifications in the new
34 building are completed and production for sale has begun; and

35 (b) "Full employment" is the number of positions required for full
36 capacity production at the new building, for positions such as line
37 workers, engineers, and technicians.

1 (c) "Semiconductor materials" has the same meaning as provided in
2 RCW 82.04.240(2).

3 (6) No exemption may be taken after twelve years after the
4 effective date of this act, however all of the eligibility criteria and
5 limitations are applicable to any exemptions claimed before that date.

6 (7) This section expires twelve years after the effective date of
7 this act.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12 RCW
9 to read as follows:

10 (1) The provisions of this chapter do not apply with respect to the
11 use of tangible personal property that will be incorporated as an
12 ingredient or component of new buildings used for the manufacturing of
13 semiconductor materials during the course of constructing such
14 buildings or to labor and services rendered in respect to installing,
15 during the course of constructing, building fixtures not otherwise
16 eligible for the exemption under RCW 82.08.02565(2)(b).

17 (2) The eligibility requirements, conditions, and definitions in
18 section 5 of this act apply to this section.

19 (3) No exemption may be taken twelve years after the effective date
20 of this act, however all of the eligibility criteria and limitations
21 are applicable to any exemptions claimed before that date.

22 (4) This section expires twelve years after the effective date of
23 this act.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08 RCW
25 to read as follows:

26 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
27 gases and chemicals used by a manufacturer or processor for hire in the
28 manufacturing of semiconductor materials. This exemption is limited to
29 gases and chemicals used in the manufacturing process to grow the
30 product, deposit or grow permanent or sacrificial layers on the
31 product, to etch or remove material from the product, to anneal the
32 product, to immerse the product, to clean the product, and other such
33 uses whereby the gases and chemicals come into direct contact with the
34 product during the manufacturing process, or uses of gases and
35 chemicals to clean the chambers and other like equipment in which such

1 processing takes place. For the purposes of this section,
2 "semiconductor materials" has the same meaning as provided in RCW
3 82.04.240(2).

4 (2) A person taking the exemption under this section must report
5 under section 11 of this act. No application is necessary for the tax
6 exemption. The person is subject to all of the requirements of chapter
7 82.32 RCW.

8 (3) This section expires twelve years after the effective date of
9 this act.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.12 RCW
11 to read as follows:

12 (1) The provisions of this chapter do not apply with respect to the
13 use of gases and chemicals used by a manufacturer or processor for hire
14 in the manufacturing of semiconductor materials. This exemption is
15 limited to gases and chemicals used in the manufacturing process to
16 grow the product, deposit or grow permanent or sacrificial layers on
17 the product, to etch or remove material from the product, to anneal the
18 product, to immerse the product, to clean the product, and other such
19 uses whereby the gases and chemicals come into direct contact with the
20 product during the manufacturing process, or uses of gases and
21 chemicals to clean the chambers and other like equipment in which such
22 processing takes place. For purposes of this section, "semiconductor
23 materials" has the same meaning as provided in RCW 82.04.240(2).

24 (2) A person taking the exemption under this section must report
25 under section 11 of this act. No application is necessary for the tax
26 exemption. The person is subject to all of the requirements of chapter
27 82.32 RCW.

28 (3) This section expires twelve years after the effective date of
29 this act.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW
31 to read as follows:

32 (1) Subject to the limits and provisions of this section, a credit
33 is authorized against the tax otherwise due under RCW 82.04.240(2) for
34 persons engaged in the business of manufacturing semiconductor

1 materials. For the purposes of this section "semiconductor materials"
2 has the same meaning as provided in RCW 82.04.240(2).

3 (2)(a) The credit under this section shall equal three thousand
4 dollars for each employment position used in manufacturing production
5 that takes place in a new building exempt from sales and use tax under
6 sections 5 and 6 of this act. A credit is earned for the calendar year
7 a person fills a position. Additionally a credit is earned for each
8 year the position is maintained over the subsequent consecutive years,
9 up to eight years. Those positions that are not filled for the entire
10 year are eligible for fifty percent of the credit if filled less than
11 six months, and the entire credit if filled more than six months.

12 (b) To qualify for the credit, the manufacturing activity of the
13 person must be conducted at a new building that qualifies for the
14 exemption from sales and use tax under sections 5 and 6 of this act.

15 (c) In those situations where a production building in existence on
16 the effective date of this section will be phased out of operation,
17 during which time employment at the new building at the same site is
18 increased, the person is eligible for credit for employment at the
19 existing building and new building, with the limitation that the
20 combined eligible employment not exceed full employment at the new
21 building. "Full employment" has the same meaning as in section 5 of
22 this act. The credit may not be earned until the commencement of
23 commercial production, as that term is used in section 5 of this act.

24 (3) No application is necessary for the tax credit. The person is
25 subject to all of the requirements of chapter 82.32 RCW. In no case
26 may a credit earned during one calendar year be carried over to be
27 credited against taxes incurred in a subsequent calendar year. No
28 refunds may be granted for credits under this section.

29 (4) If at any time the department finds that a person is not
30 eligible for tax credit under this section, the amount of taxes for
31 which a credit has been claimed shall be immediately due. The
32 department shall assess interest, but not penalties, on the taxes for
33 which the person is not eligible. The interest shall be assessed at
34 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
35 shall be retroactive to the date the tax credit was taken, and shall
36 accrue until the taxes for which a credit has been used are repaid.

1 (5) A person taking the credit under this section must report under
2 section 11 of this act.

3 (6) Credits may be taken after twelve years after the effective
4 date of this act, for those buildings at which commercial production
5 began before twelve years after the effective date of this act, subject
6 to all of the eligibility criteria and limitations of this section.

7 (7) This section expires twelve years after the effective date of
8 this act.

9 NEW SECTION. **Sec. 10.** A new section is added to chapter 84.36 RCW
10 to read as follows:

11 (1) Machinery and equipment exempt under RCW 82.08.02565 or
12 82.12.02565 used in manufacturing semiconductor materials at a building
13 exempt from sales and use tax and in compliance with the employment
14 requirement under sections 5 and 6 of this act are tax exempt from
15 taxation. "Semiconductor materials" has the same meaning as provided
16 in RCW 82.04.240(2).

17 (2) A person seeking this exemption must make application to the
18 county assessor, on forms prescribed by the department.

19 (3) A person receiving an exemption under this section must report
20 in the manner prescribed in section 11 of this act.

21 (4) This section is effective for taxes levied for collection one
22 year after the effective date of this act and thereafter.

23 (5) This section expires December 31st of the year occurring twelve
24 years after the effective date of this act, for taxes levied for
25 collection in the following year.

26 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.32 RCW
27 to read as follows:

28 (1) The legislature finds that accountability and effectiveness are
29 important aspects of setting tax policy. In order to make policy
30 choices regarding the best use of limited state resources the
31 legislature needs information on how a tax incentive is used.

32 (2)(a) A person who reports taxes under RCW 82.04.240(2) or who
33 claims an exemption or credit under section 2 or 5 through 10 of this
34 act, shall make an annual report to the department detailing
35 employment, wages, and employer-provided health and retirement benefits

1 per job at the manufacturing site. The report shall not include names
2 of employees. The report shall also detail employment by the total
3 number of full-time, part-time, and temporary positions. The first
4 report filed under this subsection shall include employment, wage, and
5 benefit information for the twelve-month period immediately before
6 first use of a preferential tax rate under RCW 82.04.240(2), or tax
7 exemption or credit under section 2 or 5 through 10 of this act. The
8 report is due by March 31st following any year in which a preferential
9 tax rate under RCW 82.04.240(2) is used, or tax exemption or credit
10 under section 2 or 5 through 10 of this act is taken. This information
11 is not subject to the confidentiality provisions of RCW 82.32.330 and
12 may be disclosed to the public upon request.

13 (b) If a person fails to submit an annual report under (a) of this
14 subsection the department shall declare the amount of taxes exempted or
15 credited for that year to be immediately due and payable. Excise taxes
16 payable under this subsection are subject to interest, as provided
17 under this chapter. This information is not subject to the
18 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
19 public upon request.

20 (3) By November 1st of the year occurring five years after the
21 effective date of this act, and November 1st of the year occurring
22 eleven years after the effective date of this act, the fiscal
23 committees of the house of representatives and the senate, in
24 consultation with the department, shall report to the legislature on
25 the effectiveness of chapter . . . , Laws of 2003 (this act) in regard
26 to keeping Washington competitive. The report shall measure the effect
27 of chapter . . . , Laws of 2003 (this act) on job retention, net jobs
28 created for Washington residents, company growth, diversification of
29 the state's economy, cluster dynamics, and other factors as the
30 committees select. The reports shall include a discussion of
31 principles to apply in evaluating whether the legislature should
32 reenact any or all of the tax preferences in chapter . . . , Laws of
33 2003 (this act).

34 NEW SECTION. **Sec. 12.** (1)(a) This act is contingent upon the
35 siting and commercial operation of a significant semiconductor
36 microchip fabrication facility in the state of Washington.

1 (b) For the purposes of this section:

2 (i) "Commercial operation" means the same as "commencement of
3 commercial production" as used in section 5 of this act.

4 (ii) "Semiconductor microchip fabrication" means "manufacturing
5 semiconductor microchips" as defined in section 2 of this act.

6 (iii) "Significant" means the combined investment of new buildings
7 and new machinery and equipment in the buildings, at the commencement
8 of commercial production, will be at least one billion dollars.

9 (2) This act takes effect the first day of the month in which a
10 contract for the construction of a significant semiconductor
11 fabrication facility is signed, as determined by the director of the
12 department of revenue.

13 (3)(a) The department of revenue shall provide notice of the
14 effective date of this act to affected taxpayers, the legislature, and
15 others as deemed appropriate by the department.

16 (b) If, after making a determination that a contract has been
17 signed and this act is effective, the department discovers that
18 commencement of commercial production did not take place within three
19 years of the date the contract was signed, the department shall make a
20 determination that this act is no longer effective, and all taxes that
21 would have been otherwise due shall be deemed deferred taxes and are
22 immediately assessed and payable from any person reporting tax under
23 RCW 82.04.240(2) or claiming an exemption or credit under section 2 or
24 5 through 10 of this act. The department is not authorized to make a
25 second determination regarding the effective date of this act."

26 Correct the title.

EFFECT: Creates tax preferences for businesses that manufacture semiconductor materials. Semiconductor materials are silicon crystals, silicon ingots, raw polished wafers, compound semiconductors, integrated circuits, and microchips. The tax preferences include a reduction in the manufacturing B&O tax rate from 0.484% to 0.275%, sales and use tax exemptions on the building of new manufacturing facilities, B&O credits for jobs created at these new facilities, sales and use tax exemptions for gases and chemicals directly used in

production, and property tax exemptions for machinery and equipment used in manufacturing.

The tax preferences do not start until DOR determines that a contract has been signed for at least a \$1 billion investment in a semiconductor microchip manufacturing facility. Semiconductor microchip manufacturing means taking raw polished semiconductor wafers and embedding integrated circuits on them. Manufacturers of semiconductor microchips are eligible for an additional tax preference - an exemption from the B&O tax for the first nine years after the bill takes effect. If commercial production does not take place within three years after the contract was signed, all tax preferences must be repaid to the state. The tax preferences end 12 years after they start.

Firms using these tax preferences must provide an annual report detailing employment, wages, employer provided health and retirement benefits at the manufacturing site. Two evaluations on the effectiveness of the tax preferences will be done by the House and Senate fiscal committees (5 years and 11 years after the preferences start).

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