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**SUBSTITUTE SENATE BILL 6665**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Hewitt, Mulliken, Honeyford, Hale, Parlette, Rasmussen and Sheahan)

READ FIRST TIME 02/25/04.

1       AN ACT Relating to the excise taxation of fruit and vegetable  
2 processing and storage; amending RCW 82.08.820 and 82.12.820;  
3 reenacting and amending RCW 82.04.260; adding a new section to chapter  
4 82.04 RCW; adding a new chapter to title 82 RCW; providing an effective  
5 date; and providing an expiration date.

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

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

9       This chapter shall not apply to amounts received from:

10       (1) Canning, preserving, freezing, processing, or dehydrating fresh  
11 fruits and vegetables; or

12       (2) Selling at wholesale fresh fruits and vegetables canned,  
13 preserved, frozen, processed, or dehydrated by the seller and sold to  
14 purchasers who transport in the ordinary course of business the goods  
15 out of this state. As proof of sale to a person who transports in the  
16 ordinary course of business goods out of this state, the seller shall  
17 annually provide a statement in a form prescribed by the department and  
18 retain the statement as a business record.

1           **Sec. 2.** RCW 82.04.260 and 2003 2nd sp.s. c 1 s 4 and 2003 2nd  
2 sp.s. c 1 s 3 are each reenacted and amended to read as follows:

3           (1) Upon every person engaging within this state in the business of  
4 manufacturing:

5           (a) Wheat into flour, barley into pearl barley, soybeans into  
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
7 or sunflower seeds into sunflower oil; as to such persons the amount of  
8 tax with respect to such business shall be equal to the value of the  
9 flour, pearl barley, oil, canola meal, or canola byproduct  
10 manufactured, multiplied by the rate of 0.138 percent;

11           (b) Seafood products which remain in a raw, raw frozen, or raw  
12 salted state at the completion of the manufacturing by that person; as  
13 to such persons the amount of tax with respect to such business shall  
14 be equal to the value of the products manufactured, multiplied by the  
15 rate of 0.138 percent;

16           (c) ~~((By canning, preserving, freezing, processing, or dehydrating  
17 fresh fruits and vegetables, or selling at wholesale fresh fruits and  
18 vegetables canned, preserved, frozen, processed, or dehydrated by the  
19 seller and sold to purchasers who transport in the ordinary course of  
20 business the goods out of this state; as to such persons the amount of  
21 tax with respect to such business shall be equal to the value of the  
22 products canned, preserved, frozen, processed, or dehydrated multiplied  
23 by the rate of 0.138 percent. As proof of sale to a person who  
24 transports in the ordinary course of business goods out of this state,  
25 the seller shall annually provide a statement in a form prescribed by  
26 the department and retain the statement as a business record;~~

27           ~~(d))~~ Dairy products that as of September 20, 2001, are identified  
28 in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts  
29 from the manufacturing of the dairy products such as whey and casein;  
30 or selling the same to purchasers who transport in the ordinary course  
31 of business the goods out of state; as to such persons the tax imposed  
32 shall be equal to the value of the products manufactured multiplied by  
33 the rate of 0.138 percent. As proof of sale to a person who transports  
34 in the ordinary course of business goods out of this state, the seller  
35 shall annually provide a statement in a form prescribed by the  
36 department and retain the statement as a business record;

37           ~~((e))~~ (d) Until July 1, 2009, alcohol fuel, biodiesel fuel, or  
38 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as

1 to such persons the amount of tax with respect to the business shall be  
2 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel  
3 feedstock manufactured, multiplied by the rate of 0.138 percent(~~(-~~  
4 ~~This subsection (1)(e) expires July 1, 2009))~~); and

5 ~~((f))~~ (e) Alcohol fuel or wood biomass fuel, as those terms are  
6 defined in RCW 82.29A.135; as to such persons the amount of tax with  
7 respect to the business shall be equal to the value of alcohol fuel or  
8 wood biomass fuel manufactured, multiplied by the rate of 0.138  
9 percent.

10 (2) Upon every person engaging within this state in the business of  
11 splitting or processing dried peas; as to such persons the amount of  
12 tax with respect to such business shall be equal to the value of the  
13 peas split or processed, multiplied by the rate of 0.138 percent.

14 (3) Upon every nonprofit corporation and nonprofit association  
15 engaging within this state in research and development, as to such  
16 corporations and associations, the amount of tax with respect to such  
17 activities shall be equal to the gross income derived from such  
18 activities multiplied by the rate of 0.484 percent.

19 (4) Upon every person engaging within this state in the business of  
20 slaughtering, breaking and/or processing perishable meat products  
21 and/or selling the same at wholesale only and not at retail; as to such  
22 persons the tax imposed shall be equal to the gross proceeds derived  
23 from such sales multiplied by the rate of 0.138 percent.

24 (5) Upon every person engaging within this state in the business of  
25 making sales, at retail or wholesale, of nuclear fuel assemblies  
26 manufactured by that person, as to such persons the amount of tax with  
27 respect to such business shall be equal to the gross proceeds of sales  
28 of the assemblies multiplied by the rate of 0.275 percent.

29 (6) Upon every person engaging within this state in the business of  
30 manufacturing nuclear fuel assemblies, as to such persons the amount of  
31 tax with respect to such business shall be equal to the value of the  
32 products manufactured multiplied by the rate of 0.275 percent.

33 (7) Upon every person engaging within this state in the business of  
34 acting as a travel agent or tour operator; as to such persons the  
35 amount of the tax with respect to such activities shall be equal to the  
36 gross income derived from such activities multiplied by the rate of  
37 0.275 percent.

1 (8) Upon every person engaging within this state in business as an  
2 international steamship agent, international customs house broker,  
3 international freight forwarder, vessel and/or cargo charter broker in  
4 foreign commerce, and/or international air cargo agent; as to such  
5 persons the amount of the tax with respect to only international  
6 activities shall be equal to the gross income derived from such  
7 activities multiplied by the rate of 0.275 percent.

8 (9) Upon every person engaging within this state in the business of  
9 stevedoring and associated activities pertinent to the movement of  
10 goods and commodities in waterborne interstate or foreign commerce; as  
11 to such persons the amount of tax with respect to such business shall  
12 be equal to the gross proceeds derived from such activities multiplied  
13 by the rate of 0.275 percent. Persons subject to taxation under this  
14 subsection shall be exempt from payment of taxes imposed by chapter  
15 82.16 RCW for that portion of their business subject to taxation under  
16 this subsection. Stevedoring and associated activities pertinent to  
17 the conduct of goods and commodities in waterborne interstate or  
18 foreign commerce are defined as all activities of a labor, service or  
19 transportation nature whereby cargo may be loaded or unloaded to or  
20 from vessels or barges, passing over, onto or under a wharf, pier, or  
21 similar structure; cargo may be moved to a warehouse or similar holding  
22 or storage yard or area to await further movement in import or export  
23 or may move to a consolidation freight station and be stuffed,  
24 unstuffed, containerized, separated or otherwise segregated or  
25 aggregated for delivery or loaded on any mode of transportation for  
26 delivery to its consignee. Specific activities included in this  
27 definition are: Wharfage, handling, loading, unloading, moving of  
28 cargo to a convenient place of delivery to the consignee or a  
29 convenient place for further movement to export mode; documentation  
30 services in connection with the receipt, delivery, checking, care,  
31 custody and control of cargo required in the transfer of cargo;  
32 imported automobile handling prior to delivery to consignee; terminal  
33 stevedoring and incidental vessel services, including but not limited  
34 to plugging and unplugging refrigerator service to containers,  
35 trailers, and other refrigerated cargo receptacles, and securing ship  
36 hatch covers.

37 (10) Upon every person engaging within this state in the business  
38 of disposing of low-level waste, as defined in RCW 43.145.010; as to

1 such persons the amount of the tax with respect to such business shall  
2 be equal to the gross income of the business, excluding any fees  
3 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
4 percent.

5 If the gross income of the taxpayer is attributable to activities  
6 both within and without this state, the gross income attributable to  
7 this state shall be determined in accordance with the methods of  
8 apportionment required under RCW 82.04.460.

9 (11) Upon every person engaging within this state as an insurance  
10 agent, insurance broker, or insurance solicitor licensed under chapter  
11 48.17 RCW; as to such persons, the amount of the tax with respect to  
12 such licensed activities shall be equal to the gross income of such  
13 business multiplied by the rate of 0.484 percent.

14 (12) Upon every person engaging within this state in business as a  
15 hospital, as defined in chapter 70.41 RCW, that is operated as a  
16 nonprofit corporation or by the state or any of its political  
17 subdivisions, as to such persons, the amount of tax with respect to  
18 such activities shall be equal to the gross income of the business  
19 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
20 percent thereafter. The moneys collected under this subsection shall  
21 be deposited in the health services account created under RCW  
22 43.72.900.

23 (13)(a) Beginning October 1, 2005, upon every person engaging  
24 within this state in the business of manufacturing commercial  
25 airplanes, or components of such airplanes, as to such persons the  
26 amount of tax with respect to such business shall, in the case of  
27 manufacturers, be equal to the value of the product manufactured, or in  
28 the case of processors for hire, be equal to the gross income of the  
29 business, multiplied by the rate of:

30 (i) 0.4235 percent from October 1, 2005, through the later of June  
31 30, 2007, or the day preceding the date final assembly of a  
32 superefficient airplane begins in Washington state, as determined under  
33 RCW 82.32.550; and

34 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
35 date final assembly of a superefficient airplane begins in Washington  
36 state, as determined under RCW 82.32.550.

37 (b) Beginning October 1, 2005, upon every person engaging within  
38 this state in the business of making sales, at retail or wholesale, of

1 commercial airplanes, or components of such airplanes, manufactured by  
2 that person, as to such persons the amount of tax with respect to such  
3 business shall be equal to the gross proceeds of sales of the airplanes  
4 or components multiplied by the rate of:

5 (i) 0.4235 percent from October 1, 2005, through the later of June  
6 30, 2007, or the day preceding the date final assembly of a  
7 superefficient airplane begins in Washington state, as determined under  
8 RCW 82.32.550; and

9 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
10 date final assembly of a superefficient airplane begins in Washington  
11 state, as determined under RCW 82.32.550.

12 (c) For the purposes of this subsection (13), "commercial  
13 airplane," "component," and "final assembly of a superefficient  
14 airplane" have the meanings given in RCW 82.32.550.

15 (d) In addition to all other requirements under this title, a  
16 person eligible for the tax rate under this subsection (13) must report  
17 as required under RCW 82.32.545.

18 (e) This subsection (13) does not apply after the earlier of: July  
19 1, 2024; or December 31, 2007, if assembly of a superefficient airplane  
20 does not begin by December 31, 2007, as determined under RCW 82.32.550.

21 NEW SECTION. **Sec. 3.** Unless the context clearly requires  
22 otherwise, the definitions in this section apply throughout this  
23 chapter.

24 (1) "Applicant" means a person applying for a tax deferral under  
25 this chapter.

26 (2) "Cold storage warehouse" means a storage warehouse used to  
27 store fresh and/or frozen perishable fruits or vegetables, or any  
28 combination thereof, at a desired temperature to maintain the quality  
29 of the product for orderly marketing.

30 (3) "Department" means the department of revenue.

31 (4) "Eligible investment project" means an investment in qualified  
32 buildings or qualified machinery and equipment, including labor and  
33 services rendered in the planning, installation, and construction of  
34 the project. The lessor or owner of the qualified building is not  
35 eligible for a deferral unless (a) the underlying ownership of the  
36 buildings, machinery, and equipment vests exclusively in the same  
37 person; or (b)(i) the lessor by written contract agrees to pass the

1 economic benefit of the deferral to the lessee in the form of reduced  
2 rent payments, and (ii) the lessee that receives the economic benefit  
3 of the deferral agrees in writing with the department to complete the  
4 annual report under section 6 of this act. The economic benefit of the  
5 deferral to the lessee may be evidenced by any type of payment, credit,  
6 or any other financial arrangement between the lessor or owner of the  
7 qualified building and the lessee.

8 (5) "Fresh fruit and vegetable processing" means manufacturing as  
9 defined in RCW 82.04.120 which consists of the canning, preserving,  
10 freezing, processing, or dehydrating fresh fruits and/or vegetables.

11 (6) "Person" has the meaning given in RCW 82.04.030.

12 (7) "Qualified buildings" means construction of new structures, and  
13 expansion or renovation of existing structures for the purpose of  
14 increasing floor space or production capacity used for fresh fruit and  
15 vegetable processing, cold storage warehouse, and research and  
16 development activities, including plant offices and warehouses or other  
17 facilities for the storage of raw material or finished goods if such  
18 facilities are an essential or an integral part of a factory, plant, or  
19 laboratory used for fresh fruit and vegetable processing, cold storage  
20 warehousing, or research and development. If a building is used partly  
21 for fresh fruit and vegetable processing, cold storage warehousing, or  
22 research and development and partly for other purposes, the applicable  
23 tax deferral shall be determined by apportionment of the costs of  
24 construction under rules adopted by the department.

25 (8) "Qualified machinery and equipment" means all industrial and  
26 research fixtures, equipment, and support facilities that are an  
27 integral and necessary part of a fresh fruit and vegetable processing,  
28 cold storage warehouse, or research and development operation.  
29 "Qualified machinery and equipment" includes: Computers; software;  
30 data processing equipment; laboratory equipment; manufacturing  
31 components such as belts, pulleys, shafts, and moving parts; molds,  
32 tools, and dies; operating structures; and all equipment used to  
33 control or operate the machinery.

34 (9) "Recipient" means a person receiving a tax deferral under this  
35 chapter.

36 (10) "Research and development" means the development, refinement,  
37 testing, marketing, and commercialization of a product, service, or  
38 process related to fresh fruit and vegetable processing or cold storage

1 warehousing before commercial sales have begun. As used in this  
2 subsection, "commercial sales" excludes sales of prototypes or sales  
3 for market testing if the total gross receipts from such sales of the  
4 product, service, or process do not exceed one million dollars.

5 NEW SECTION. **Sec. 4.** (1) Application for deferral of taxes under  
6 this chapter must be made before initiation of the construction of the  
7 investment project or acquisition of equipment or machinery. The  
8 application shall be made to the department in a form and manner  
9 prescribed by the department. The application shall contain  
10 information regarding the location of the investment project, the  
11 applicant's average employment in the state for the prior year,  
12 estimated or actual new employment related to the project, estimated or  
13 actual wages of employees related to the project, estimated or actual  
14 costs, time schedules for completion and operation, and other  
15 information required by the department.

16 (2) The department shall rule on the application within sixty days.  
17 The department shall keep a running total of all deferrals granted  
18 under this chapter during each fiscal biennium.

19 (3) No application may be made under this chapter for a project for  
20 which a refund is requested under RCW 82.08.820 or 82.12.820.

21 NEW SECTION. **Sec. 5.** (1) The department shall issue a sales and  
22 use tax deferral certificate for state and local sales and use taxes  
23 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible  
24 investment project if the investment project is undertaken for the  
25 purpose of fresh fruit and vegetable processing, cold storage  
26 warehousing, or research and development.

27 (2) This section expires July 1, 2010.

28 NEW SECTION. **Sec. 6.** (1) Each recipient of a deferral granted  
29 under this chapter shall submit a report to the department on December  
30 31st of the year in which the investment project is certified by the  
31 department as having been operationally completed, and on December 31st  
32 of each of the seven succeeding calendar years. The report shall  
33 contain information, as required by the department, from which the  
34 department may determine whether the recipient is meeting the  
35 requirements of this chapter. If the recipient fails to submit a



1 report or submits an inadequate report, the department may declare the  
2 amount of deferred taxes outstanding to be immediately assessed and  
3 payable.

4 (2) If, on the basis of a report under this section or other  
5 information, the department finds that an investment project is not  
6 eligible for tax deferral under this chapter, the amount of deferred  
7 taxes outstanding for the project are immediately due. For any taxes  
8 that are due, penalties and interest applicable to delinquent excise  
9 taxes shall be assessed and imposed for delinquent payments under this  
10 chapter. The debt for deferred taxes will not be extinguished by  
11 insolvency or other failure of the recipient. Transfer of ownership  
12 does not terminate the deferral. The deferral is transferred, subject  
13 to the successor meeting the eligibility requirements of this chapter,  
14 for the remaining periods of the deferral.

15 (3) Deferred taxes need not be repaid if the department determines,  
16 in accordance with the provisions of subsection (1) of this section,  
17 that the recipient has met the requirements of this chapter for the  
18 seven calendar years following the certification by the department that  
19 the investment project has been operationally completed.

20 NEW SECTION. **Sec. 7.** The employment security department shall  
21 make, and certify to the department of revenue, all determinations of  
22 employment and wages as requested by the department under this chapter.

23 NEW SECTION. **Sec. 8.** Chapter 82.32 RCW applies to the  
24 administration of this chapter.

25 NEW SECTION. **Sec. 9.** Applications received by the department  
26 under this chapter shall not be confidential and shall be subject to  
27 disclosure.

28 **Sec. 10.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read  
29 as follows:

30 (1) Wholesalers or third-party warehouseers who own or operate  
31 warehouses or grain elevators and retailers who own or operate  
32 distribution centers, and who have paid the tax levied by RCW 82.08.020  
33 on:

1 (a) Material-handling and racking equipment, and labor and services  
2 rendered in respect to installing, repairing, cleaning, altering, or  
3 improving the equipment; or

4 (b) Construction of a warehouse or grain elevator, including  
5 materials, and including service and labor costs,  
6 are eligible for an exemption in the form of a remittance. The amount  
7 of the remittance is computed under subsection (3) of this section and  
8 is based on the state share of sales tax.

9 (2) For purposes of this section and RCW 82.12.820:

10 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

11 (b) "Cold storage warehouse" means a storage warehouse used to  
12 store fresh and/or frozen perishable fruits or vegetables, or any  
13 combination thereof, at a desired temperature to maintain the quality  
14 of the product for orderly marketing;

15 (c) "Construction" means the actual construction of a warehouse or  
16 grain elevator that did not exist before the construction began.  
17 "Construction" includes expansion if the expansion adds at least  
18 twenty-five thousand square feet of additional space to an existing  
19 cold storage warehouse, at least two hundred thousand square feet of  
20 additional space to an existing warehouse other than a cold storage  
21 warehouse, or additional storage capacity of at least one million  
22 bushels to an existing grain elevator. "Construction" does not include  
23 renovation, remodeling, or repair;

24 ((+e)) (d) "Department" means the department of revenue;

25 ((+d)) (e) "Distribution center" means a warehouse that is used  
26 exclusively by a retailer solely for the storage and distribution of  
27 finished goods to retail outlets of the retailer. "Distribution  
28 center" does not include a warehouse at which retail sales occur;

29 ((+e)) (f) "Finished goods" means tangible personal property  
30 intended for sale by a retailer or wholesaler. "Finished goods" does  
31 not include agricultural products stored by wholesalers, third-party  
32 warehouses, or retailers if the storage takes place on the land of the  
33 person who produced the agricultural product. "Finished goods" does  
34 not include logs, minerals, petroleum, gas, or other extracted products  
35 stored as raw materials or in bulk;

36 ((+f)) (g) "Grain elevator" means a structure used for storage and  
37 handling of grain in bulk;

1       ~~((g))~~ (h) "Material-handling equipment and racking equipment"  
2 means equipment in a warehouse or grain elevator that is primarily used  
3 to handle, store, organize, convey, package, or repackage finished  
4 goods. The term includes tangible personal property with a useful life  
5 of one year or more that becomes an ingredient or component of the  
6 equipment, including repair and replacement parts. The term does not  
7 include equipment in offices, lunchrooms, restrooms, and other like  
8 space, within a warehouse or grain elevator, or equipment used for  
9 nonwarehousing purposes. "Material-handling equipment" includes but is  
10 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
11 place units, cranes, hoists, mechanical arms, and robots; mechanized  
12 systems, including containers that are an integral part of the system,  
13 whose purpose is to lift or move tangible personal property; and  
14 automated handling, storage, and retrieval systems, including computers  
15 that control them, whose purpose is to lift or move tangible personal  
16 property; and forklifts and other off-the-road vehicles that are used  
17 to lift or move tangible personal property and that cannot be operated  
18 legally on roads and streets. "Racking equipment" includes, but is not  
19 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
20 pallets, and other containers and storage devices that form a necessary  
21 part of the storage system;

22       ~~((h))~~ (i) "Person" has the meaning given in RCW 82.04.030;

23       ~~((i))~~ (j) "Retailer" means a person who makes "sales at retail"  
24 as defined in chapter 82.04 RCW of tangible personal property;

25       ~~((j))~~ (k) "Square footage" means the product of the two  
26 horizontal dimensions of each floor of a specific warehouse. The  
27 entire footprint of the warehouse shall be measured in calculating the  
28 square footage, including space that juts out from the building profile  
29 such as loading docks. "Square footage" does not mean the aggregate of  
30 the square footage of more than one warehouse at a location or the  
31 aggregate of the square footage of warehouses at more than one  
32 location;

33       ~~((k))~~ (l) "Third-party warehouse" means a person taxable under  
34 RCW 82.04.280(4);

35       ~~((l))~~ (m) "Warehouse" means an enclosed building or structure in  
36 which finished goods are stored. A warehouse building or structure may  
37 have more than one storage room and more than one floor. Office space,  
38 lunchrooms, restrooms, and other space within the warehouse and

1 necessary for the operation of the warehouse are considered part of the  
2 warehouse as are loading docks and other such space attached to the  
3 building and used for handling of finished goods. Landscaping and  
4 parking lots are not considered part of the warehouse. A storage yard  
5 is not a warehouse, nor is a building in which manufacturing takes  
6 place; and

7 ~~((m))~~ (n) "Wholesaler" means a person who makes "sales at  
8 wholesale" as defined in chapter 82.04 RCW of tangible personal  
9 property, but "wholesaler" does not include a person who makes sales  
10 exempt under 82.04.330.

11 (3)(a) A person claiming an exemption from state tax in the form of  
12 a remittance under this section must pay the tax imposed by RCW  
13 82.08.020. The buyer may then apply to the department for remittance  
14 of all or part of the tax paid under RCW 82.08.020. For grain  
15 elevators with bushel capacity of one million but less than two  
16 million, the remittance is equal to fifty percent of the amount of tax  
17 paid. For warehouses with square footage of two hundred thousand or  
18 more, other than cold storage warehouses, and for grain elevators with  
19 bushel capacity of two million or more, the remittance is equal to one  
20 hundred percent of the amount of tax paid for qualifying construction,  
21 materials, service, and labor, and fifty percent of the amount of tax  
22 paid for qualifying material-handling equipment and racking equipment,  
23 and labor and services rendered in respect to installing, repairing,  
24 cleaning, altering, or improving the equipment. For cold storage  
25 warehouses with square footage of twenty-five thousand or more, the  
26 remittance is equal to one hundred percent of the amount of tax paid  
27 for qualifying construction, materials, service, and labor, and one  
28 hundred percent of the amount of tax paid for qualifying material-  
29 handling equipment and racking equipment, and labor and services  
30 rendered in respect to installing, repairing, cleaning, altering, or  
31 improving the equipment.

32 (b) The department shall determine eligibility under this section  
33 based on information provided by the buyer and through audit and other  
34 administrative records. The buyer shall on a quarterly basis submit an  
35 information sheet, in a form and manner as required by the department  
36 by rule, specifying the amount of exempted tax claimed and the  
37 qualifying purchases or acquisitions for which the exemption is  
38 claimed. The buyer shall retain, in adequate detail to enable the

1 department to determine whether the equipment or construction meets the  
2 criteria under this section: Invoices; proof of tax paid; documents  
3 describing the material-handling equipment and racking equipment;  
4 location and size of warehouses and grain elevators; and construction  
5 invoices and documents.

6 (c) The department shall on a quarterly basis remit exempted  
7 amounts to qualifying persons who submitted applications during the  
8 previous quarter.

9 (4) Warehouses, grain elevators, and material-handling equipment  
10 and racking equipment for which an exemption, credit, or deferral has  
11 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63  
12 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
13 remittance under this section. Warehouses and grain elevators upon  
14 which construction was initiated before May 20, 1997, are not eligible  
15 for a remittance under this section.

16 (5) The lessor or owner of a warehouse or grain elevator is not  
17 eligible for a remittance under this section unless the underlying  
18 ownership of the warehouse or grain elevator and the material-handling  
19 equipment and racking equipment vests exclusively in the same person,  
20 or unless the lessor by written contract agrees to pass the economic  
21 benefit of the remittance to the lessee in the form of reduced rent  
22 payments.

23 **Sec. 11.** RCW 82.12.820 and 2003 c 5 s 13 are each amended to read  
24 as follows:

25 (1) Wholesalers or third-party warehouseers who own or operate  
26 warehouses or grain elevators, and retailers who own or operate  
27 distribution centers, and who have paid the tax levied under RCW  
28 82.12.020 on:

29 (a) Material-handling equipment and racking equipment and labor and  
30 services rendered in respect to installing, repairing, cleaning,  
31 altering, or improving the equipment; or

32 (b) Materials incorporated in the construction of a warehouse or  
33 grain elevator, are eligible for an exemption on tax paid in the form  
34 of a remittance or credit against tax owed. The amount of the  
35 remittance or credit is computed under subsection (2) of this section  
36 and is based on the state share of use tax.

1 (2)(a) A person claiming an exemption from state tax in the form of  
2 a remittance under this section must pay the tax imposed by RCW  
3 82.12.020 to the department. The person may then apply to the  
4 department for remittance of all or part of the tax paid under RCW  
5 82.12.020. For grain elevators with bushel capacity of one million but  
6 less than two million, the remittance is equal to fifty percent of the  
7 amount of tax paid. For warehouses with square footage of two hundred  
8 thousand or more, other than cold storage warehouses, and for grain  
9 elevators with bushel capacity of two million or more, the remittance  
10 is equal to one hundred percent of the amount of tax paid for  
11 qualifying construction materials, and fifty percent of the amount of  
12 tax paid for qualifying material-handling equipment and racking  
13 equipment. For cold storage warehouses with square footage of twenty-  
14 five thousand or more, the remittance is equal to one hundred percent  
15 of the amount of tax paid for qualifying construction, materials,  
16 service, and labor, and one hundred percent of the amount of tax paid  
17 for qualifying material-handling equipment and racking equipment, and  
18 labor and services rendered in respect to installing, repairing,  
19 cleaning, altering, or improving the equipment.

20 (b) The department shall determine eligibility under this section  
21 based on information provided by the buyer and through audit and other  
22 administrative records. The buyer shall on a quarterly basis submit an  
23 information sheet, in a form and manner as required by the department  
24 by rule, specifying the amount of exempted tax claimed and the  
25 qualifying purchases or acquisitions for which the exemption is  
26 claimed. The buyer shall retain, in adequate detail to enable the  
27 department to determine whether the equipment or construction meets the  
28 criteria under this section: Invoices; proof of tax paid; documents  
29 describing the material-handling equipment and racking equipment;  
30 location and size of warehouses, if applicable; and construction  
31 invoices and documents.

32 (c) The department shall on a quarterly basis remit or credit  
33 exempted amounts to qualifying persons who submitted applications  
34 during the previous quarter.

35 (3) Warehouse, grain elevators, and material-handling equipment and  
36 racking equipment for which an exemption, credit, or deferral has been  
37 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or  
38 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance

1 under this section. Materials incorporated in warehouses and grain  
2 elevators upon which construction was initiated prior to May 20, 1997,  
3 are not eligible for a remittance under this section.

4 (4) The lessor or owner of the warehouse or grain elevator is not  
5 eligible for a remittance or credit under this section unless the  
6 underlying ownership of the warehouse or grain elevator and material-  
7 handling equipment and racking equipment vests exclusively in the same  
8 person, or unless the lessor by written contract agrees to pass the  
9 economic benefit of the exemption to the lessee in the form of reduced  
10 rent payments.

11 (5) The definitions in RCW 82.08.820 apply to this section.

12 NEW SECTION. **Sec. 12.** Sections 3 through 9 of this act constitute  
13 a new chapter in Title 82 RCW.

14 NEW SECTION. **Sec. 13.** This act takes effect July 1, 2005.

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