
SENATE BILL 6665

State of Washington

58th Legislature

2004 Regular Session

By Senators Hewitt, Mulliken, Honeyford, Hale, Parlette, Rasmussen and Sheahan

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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 the canning,
10 preserving, freezing, processing, or dehydrating fresh fruits and
11 vegetables which are subsequently sold at wholesale outside the state
12 or which are sold at wholesale by the person canning, preserving,
13 freezing, processing, or dehydrating fresh fruits and vegetables to
14 purchasers outside the state or to purchasers who transport in the
15 ordinary course of business the goods out of this state, or selling at
16 wholesale fresh fruits and vegetables canned, preserved, frozen,
17 processed, or dehydrated by the seller and sold to purchasers who
18 transport in the ordinary course of business the goods out of this
19 state. As proof of sale to a person who transports in the ordinary

1 course of business goods out of this state, the seller shall annually
2 provide a statement in a form prescribed by the department and retain
3 the statement as a business record.

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

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

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

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

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

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

1 in the ordinary course of business goods out of this state, the seller
2 shall annually provide a statement in a form prescribed by the
3 department and retain the statement as a business record;

4 (e) Alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those
5 terms are defined in RCW 82.29A.135; as to such persons the amount of
6 tax with respect to the business shall be equal to the value of alcohol
7 fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied
8 by the rate of 0.138 percent. This subsection (1)(e) expires July 1,
9 2009; and

10 (f) Alcohol fuel or wood biomass fuel, as those terms are defined
11 in RCW 82.29A.135; as to such persons the amount of tax with respect to
12 the business shall be equal to the value of alcohol fuel or wood
13 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

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

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

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

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

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

37 (7) Upon every person engaging within this state in the business of
38 acting as a travel agent or tour operator; as to such persons the

1 amount of the tax with respect to such activities shall be equal to the
2 gross income derived from such activities multiplied by the rate of
3 0.275 percent.

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

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

1 trailers, and other refrigerated cargo receptacles, and securing ship
2 hatch covers.

3 (10) Upon every person engaging within this state in the business
4 of disposing of low-level waste, as defined in RCW 43.145.010; as to
5 such persons the amount of the tax with respect to such business shall
6 be equal to the gross income of the business, excluding any fees
7 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
8 percent.

9 If the gross income of the taxpayer is attributable to activities
10 both within and without this state, the gross income attributable to
11 this state shall be determined in accordance with the methods of
12 apportionment required under RCW 82.04.460.

13 (11) Upon every person engaging within this state as an insurance
14 agent, insurance broker, or insurance solicitor licensed under chapter
15 48.17 RCW; as to such persons, the amount of the tax with respect to
16 such licensed activities shall be equal to the gross income of such
17 business multiplied by the rate of 0.484 percent.

18 (12) Upon every person engaging within this state in business as a
19 hospital, as defined in chapter 70.41 RCW, that is operated as a
20 nonprofit corporation or by the state or any of its political
21 subdivisions, as to such persons, the amount of tax with respect to
22 such activities shall be equal to the gross income of the business
23 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
24 percent thereafter. The moneys collected under this subsection shall
25 be deposited in the health services account created under RCW
26 43.72.900.

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

34 (i) 0.4235 percent from October 1, 2005, through the later of June
35 30, 2007, or the day preceding the date final assembly of a
36 superefficient airplane begins in Washington state, as determined under
37 RCW 82.32.550; and

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

4 (b) Beginning October 1, 2005, upon every person engaging within
5 this state in the business of making sales, at retail or wholesale, of
6 commercial airplanes, or components of such airplanes, manufactured by
7 that person, as to such persons the amount of tax with respect to such
8 business shall be equal to the gross proceeds of sales of the airplanes
9 or components multiplied by the rate of:

10 (i) 0.4235 percent from October 1, 2005, through the later of June
11 30, 2007, or the day preceding the date final assembly of a
12 superefficient airplane begins in Washington state, as determined under
13 RCW 82.32.550; and

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

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

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

23 (e) This subsection (13) does not apply after the earlier of: July
24 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
25 does not begin by December 31, 2007, as determined under RCW 82.32.550.

26 NEW SECTION. **Sec. 3.** Unless the context clearly requires
27 otherwise, the definitions in this section apply throughout this
28 chapter.

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

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

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

36 (4) "Eligible investment project" means an investment in qualified
37 buildings or qualified machinery and equipment, including labor and

1 services rendered in the planning, installation, and construction of
2 the project. The lessor or owner of a qualified building is not
3 eligible for a deferral unless the underlying ownership of the
4 buildings, machinery, and equipment vests exclusively in the same
5 person, or unless the lessor by written contract agrees to pass the
6 economic benefit of the deferral to the lessee in the form of reduced
7 rent payments.

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

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

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

1 amount of deferred taxes outstanding to be immediately assessed and
2 payable.

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

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

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

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

24 NEW SECTION. **Sec. 9.** Applications, reports, and any other
25 information received by the department under this chapter shall not be
26 confidential and shall be subject to disclosure.

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

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

33 (a) Material-handling and racking equipment, and labor and services

1 rendered in respect to installing, repairing, cleaning, altering, or
2 improving the equipment; or

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

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

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

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

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

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

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

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

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

37 ((+g)) (h) "Material-handling equipment and racking equipment"
38 means equipment in a warehouse or grain elevator that is primarily used

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

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

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

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

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

33 ~~((l))~~ (m) "Warehouse" means an enclosed building or structure in
34 which finished goods are stored. A warehouse building or structure may
35 have more than one storage room and more than one floor. Office space,
36 lunchrooms, restrooms, and other space within the warehouse and
37 necessary for the operation of the warehouse are considered part of the
38 warehouse as are loading docks and other such space attached to the

1 building and used for handling of finished goods. Landscaping and
2 parking lots are not considered part of the warehouse. A storage yard
3 is not a warehouse, nor is a building in which manufacturing takes
4 place; and

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

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

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

1 describing the material-handling equipment and racking equipment;
2 location and size of warehouses and grain elevators; and construction
3 invoices and documents.

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

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

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

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

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

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

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

35 (2)(a) A person claiming an exemption from state tax in the form of
36 a remittance under this section must pay the tax imposed by RCW
37 82.12.020 to the department. The person may then apply to the

1 department for remittance of all or part of the tax paid under RCW
2 82.12.020. For grain elevators with bushel capacity of one million but
3 less than two million, the remittance is equal to fifty percent of the
4 amount of tax paid. For warehouses with square footage of two hundred
5 thousand or more, other than cold storage warehouses, and for grain
6 elevators with bushel capacity of two million or more, the remittance
7 is equal to one hundred percent of the amount of tax paid for
8 qualifying construction materials, and fifty percent of the amount of
9 tax paid for qualifying material-handling equipment and racking
10 equipment. For cold storage warehouses with square footage of twenty-
11 five thousand or more, the remittance is equal to one hundred percent
12 of the amount of tax paid for qualifying construction, materials,
13 service, and labor, and one hundred percent of the amount of tax paid
14 for qualifying material-handling equipment and racking equipment, and
15 labor and services rendered in respect to installing, repairing,
16 cleaning, altering, or improving the equipment.

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

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

32 (3) Warehouse, grain elevators, and material-handling equipment and
33 racking equipment for which an exemption, credit, or deferral has been
34 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or
35 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
36 under this section. Materials incorporated in warehouses and grain
37 elevators upon which construction was initiated prior to May 20, 1997,
38 are not eligible for a remittance under this section.

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

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

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

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

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