
HOUSE BILL 1574

State of Washington

59th Legislature

2005 Regular Session

By Representatives Morrell, McDonald, Linville, Springer, Flannigan, Campbell, Pettigrew, Conway, P. Sullivan, Holmquist, Ericks, Hinkle, Upthegrove, Williams and Hudgins

Read first time 01/28/2005. Referred to Committee on Economic Development, Agriculture & Trade.

1 AN ACT Relating to sales and use tax relief for qualifying small
2 businesses constructing manufacturing facilities; amending RCW
3 82.60.030; adding a new chapter to Title 82 RCW; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

9 (1) "Applicant" means a qualified small business applying for a tax
10 deferral under this chapter.

11 (2) "Department" means the department of revenue.

12 (3) "Eligible investment project" means an investment project by a
13 qualified small business as defined in this section.

14 (4) "Employee" means a full-time, part-time, or temporary employee
15 covered by Title 50 RCW for whom the small business is making
16 contributions.

17 (5) "Full-time employee" means a person whose employer requires
18 them to work thirty-five hours per week, four hundred fifty-five hours
19 a quarter, or one thousand eight hundred twenty hours a year.

1 (6) "Health care plan" means any "employee welfare benefit plan" as
2 defined by the employee retirement income security act of 1974, 29
3 U.S.C. Sec. 1001 et seq. and any "health plan" or "health benefit plan"
4 as defined in RCW 48.43.005, funded or established by an employer for
5 the purpose of providing for its employees or their beneficiaries,
6 through the purchase of insurance or otherwise, health care services.
7 For purposes of this subsection "health care services" means services
8 offered or provided by health care facilities and health care providers
9 relating to the prevention, cure, or treatment of illness, injury, or
10 disease.

11 (7) "Initiation of construction" means the date that a building
12 permit is issued under the building code adopted under RCW 19.27.031.
13 Initiation of construction does not include soil testing, site clearing
14 and grading, site preparation, or any other related activities that are
15 initiated before the issuance of a building permit for the construction
16 of the foundation of the building. If the investment project involves
17 more than one qualified building, initiation of construction shall
18 apply separately to each qualified building.

19 (8) "Investment project" means an investment in qualified buildings
20 or qualified machinery and equipment, including labor and services
21 rendered in the planning, installation, and construction of the
22 project. An investment project does not include any portion of an
23 investment project undertaken by a light and power business as defined
24 in RCW 82.16.010(5), other than that portion of a cogeneration project
25 that is used to generate power for consumption within the manufacturing
26 site of which the cogeneration project is an integral part, or
27 investment projects which have already received deferrals under this
28 chapter.

29 (9) "Manufacturing" means the same as defined in RCW 82.04.120.

30 (10) "Operationally complete" means that the investment project is
31 capable of being used for its intended purpose as described in the
32 application.

33 (11) "Qualified buildings" means construction of new structures
34 including parking facilities, and expansion or renovation of existing
35 structures, for the purpose of increasing floor space or production
36 capacity used for manufacturing, including plant offices and warehouses
37 or other facilities for the storage of raw material or finished goods
38 if such facilities are an essential or an integral part of a factory,

1 mill, or plant, used for manufacturing. If a building is used partly
2 for manufacturing and partly for other purposes, the applicable tax
3 deferral shall be determined by apportionment of the costs of
4 construction under rules adopted by the department.

5 (12) "Qualified machinery and equipment" means all new industrial
6 fixtures, equipment, and support facilities that are an integral and
7 necessary part of a manufacturing operation. "Qualified machinery and
8 equipment" includes manufacturing components such as belts, pulleys,
9 shafts, and moving parts; molds, tools, and dies; operating structures;
10 and all equipment used to control or operate the machinery.

11 (13) "Qualified small business" means a small business that:

12 (a) Pays all of its employees a wage of at least one and one-half
13 times the state's minimum wage as it exists at the time the department
14 certifies that the investment project is operationally complete; and

15 (b) Offers a health care plan to all of its full-time employees.

16 (14) "Recipient" means a qualified small business receiving a tax
17 deferral under this chapter.

18 (15) "Small business" means a "person" as defined in RCW 82.04.030
19 that does not exceed the following employment levels:

20 (a) Fifty or fewer employees at the time of application and at the
21 time the department certifies that the investment project is
22 operationally complete;

23 (b) One hundred or fewer employees at the end of the first calendar
24 year following the year in which the department certifies that the
25 investment project is operationally complete;

26 (c) Two hundred or fewer employees at the end of the second
27 calendar year following the year in which the department certifies that
28 the investment project is operationally complete; or

29 (d) Four hundred or fewer employees at the end of the third
30 calendar year following the year in which the department certifies that
31 the investment project is operationally complete.

32 NEW SECTION. **Sec. 2.** Application for deferral of taxes under this
33 chapter must be made before initiation of the construction of the
34 investment project or acquisition of equipment or machinery. The
35 application shall be made to the department in a form and manner
36 prescribed by the department. The application shall contain
37 information regarding the location of the investment project, the

1 applicant's average employment in the state for the prior year,
2 estimated or actual new employment related to the project, estimated or
3 actual wages of employees related to the project, estimated or actual
4 costs, time schedules for completion and operation, and other
5 information required by the department. The department shall rule on
6 the application within sixty days.

7 NEW SECTION. **Sec. 3.** (1) The department shall issue a sales and
8 use tax deferral certificate for state and local sales and use taxes
9 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible
10 investment project.

11 (2) The department shall keep a running total of all deferrals
12 granted under this chapter during each fiscal biennium.

13 NEW SECTION. **Sec. 4.** (1) Except as provided in subsections (2)
14 and (3) of this section, taxes deferred under this chapter need not be
15 repaid.

16 (2) Each recipient shall submit an annual report to the department
17 by March 31st following the year in which the eligible investment
18 project was certified as operationally complete, and on March 31st of
19 the three succeeding calendar years. The annual report shall contain
20 information, as required by the department, from which the department
21 may determine whether the recipient is meeting the requirements of this
22 chapter. If the recipient fails to submit a report or submits an
23 inadequate report, the department may declare the amount of deferred
24 taxes outstanding to be immediately due and payable.

25 (3) If, on the basis of an annual report under subsection (2) of
26 this section or other information, the department finds that an
27 investment project is used for purposes other than manufacturing or
28 that the recipient is no longer a qualified small business at any time
29 during the calendar year in which the investment project is certified
30 by the department as having been operationally completed, or at any
31 time during any of the three succeeding calendar years, a portion of
32 deferred taxes shall be immediately due and payable according to the
33 following schedule:

	Repayment Year	% of Deferred Tax Repaid
1		
2	1	100%
3	2	75%
4	3	50%
5	4	25%

6 (4) The department shall assess interest, but not penalties, on the
7 deferred taxes under subsections (2) and (3) of this section. The
8 interest shall be assessed at the rate provided for delinquent taxes
9 under chapter 82.32 RCW, retroactively to the date of deferral, and
10 shall accrue until the deferred taxes are repaid.

11 (5) The debt for deferred taxes will not be extinguished by
12 insolvency or other failure of the recipient. Transfer of ownership
13 does not terminate the deferral. The deferral is transferred if the
14 new owner meets the eligibility requirements of this chapter, for the
15 remaining periods of the deferral, and the new owner agrees in writing
16 to assume liability for payment of any deferred taxes under subsections
17 (2) and (3) of this section. The original recipient of a deferral that
18 is transferred is not responsible for payment of any deferred tax under
19 subsection (2) or (3) of this section for periods subsequent to the
20 transfer.

21 NEW SECTION. **Sec. 5.** If a recipient must pay deferred tax under
22 section 4(3) of this act because the recipient is no longer a qualified
23 small business, the department shall issue a deferral certificate under
24 chapter 82.60 RCW for the deferred taxes outstanding if the investment
25 project is an eligible investment project as defined in RCW 82.60.020
26 or 82.60.049.

27 **Sec. 6.** RCW 82.60.030 and 1994 sp.s. c 1 s 2 are each amended to
28 read as follows:

29 (1) Except as provided in subsection (2) of this section,
30 application for deferral of taxes under this chapter must be made
31 before initiation of the construction of the investment project or
32 acquisition of equipment or machinery. The application shall be made
33 to the department in a form and manner prescribed by the department.
34 The application shall contain information regarding the location of the

1 investment project, the applicant's average employment in the state for
2 the prior year, estimated or actual new employment related to the
3 project, estimated or actual wages of employees related to the project,
4 estimated or actual costs, time schedules for completion and operation,
5 and other information required by the department. The department shall
6 rule on the application within sixty days.

7 (2) An application for deferral of taxes under this chapter is not
8 required to issue a deferral certificate for investment projects under
9 section 5 of this act.

10 NEW SECTION. Sec. 7. The employment security department shall
11 make, and certify to the department of revenue, all determinations of
12 employment as requested by the department under this chapter.

13 NEW SECTION. Sec. 8. Chapter 82.32 RCW applies to the
14 administration of this chapter.

15 NEW SECTION. Sec. 9. Applications, reports, and any other
16 information received by the department under this chapter shall not be
17 confidential under RCW 82.32.330.

18 NEW SECTION. Sec. 10. Taxes shall not be deferred under this act
19 prior to July 1, 2005.

20 NEW SECTION. Sec. 11. Sections 1 through 5 and 7 through 10 and
21 12 of this act constitute a new chapter in Title 82 RCW.

22 NEW SECTION. Sec. 12. This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 immediately.

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