
SUBSTITUTE HOUSE BILL 3222

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Finance (originally sponsored by
Representatives Pettigrew, Haler, Chandler, Kretz, Hinkle,
Kristiansen, Holmquist and Linville)

READ FIRST TIME 02/07/06.

1 AN ACT Relating to excise tax exemptions for the handling and
2 processing of livestock manure; adding a new section to chapter 82.08
3 RCW; adding a new section to chapter 82.12 RCW; creating a new section;
4 repealing RCW 82.08.890, 82.08.900, 82.12.890, and 82.12.900; and
5 providing an effective 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 82.08 RCW
8 to read as follows:

9 (1) Eligible persons who have paid sales tax on qualifying
10 investment projects are eligible for an exemption in the form of a
11 remittance.

12 (2)(a) A person claiming an exemption from tax in the form of a
13 remittance under this section must pay the tax imposed under RCW
14 82.08.020 or chapter 82.14 RCW. The buyer may then apply to the
15 department for remittance of all or part of the tax paid.

16 (b) The department shall determine eligibility under this section
17 based on information provided by the buyer and through audit and other
18 administrative records. The department of agriculture must provide a
19 list of eligible persons, as defined in subsection (5)(f)(i) through

1 (iii) of this section, to the department. The conservation commission
2 must provide a list of eligible persons, as defined in subsection
3 (5)(f)(iv) of this section, to the department. The buyer shall on a
4 quarterly basis submit an information sheet, in a form and manner as
5 required by the department, specifying the amount of exempted tax
6 claimed and the qualifying investment project for which the exemption
7 is claimed. The buyer shall retain, in adequate detail to enable the
8 department to determine whether the investment project meets the
9 criteria under this section: Invoices; proof of tax paid; information
10 regarding the location of the dairy, animal feeding operation, or
11 anaerobic digester; documents describing the investment project; and
12 any other information the department may require.

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

16 (3)(a) For a qualifying investment project that includes livestock
17 nutrient management equipment and facilities, the equipment and
18 facilities must be used exclusively for activities necessary to
19 maintain a nutrient management plan and the exemption applies to sales
20 made after the nutrient management plan is: (i) Certified under
21 chapter 90.64 RCW; (ii) approved as part of the permit issued under
22 chapter 90.48 RCW; or (iii) verified as required under subsection
23 (5)(f)(iv) of this section.

24 (b) For a qualifying investment project that includes an anaerobic
25 digester, the anaerobic digester must be used primarily to treat
26 livestock manure.

27 (4) The department shall keep a running total of the amount of
28 exemptions by remittance claimed by eligible persons under subsection
29 (5)(f)(iv) of this section during each fiscal year. The department
30 shall not allow any exemptions by remittance to be claimed by eligible
31 persons under subsection (5)(f)(iv) of this section which would cause
32 the total to exceed two hundred thousand dollars in any fiscal year.
33 If all or part of an exemption by remittance is disallowed under this
34 subsection, the disallowed portion may be carried over to subsequent
35 fiscal years. Disallowed portions carried over may be claimed only to
36 the extent that the cap for the fiscal year in which the claim is made
37 is not exceeded. Persons carrying over disallowed portions are not
38 required to reapply to the department for remittance.

1 (5) The definitions in this subsection apply to this section and
2 section 2 of this act:

3 (a) "Anaerobic digester" means a facility that processes manure
4 from livestock into biogas and dried manure using microorganisms in a
5 decomposition process within a closed, oxygen-free container.

6 (b) "Animal feeding operation" means a lot or facility, other than
7 an aquatic animal production facility, where the following conditions
8 are met:

9 (i) Animals, other than aquatic animals, have been, are, or will be
10 stabled or confined and fed or maintained for a total of forty-five
11 days or more in any twelve-month period; and

12 (ii) Crops, vegetation, forage growth, or postharvest residues are
13 not sustained in the normal growing season over any portion of the lot
14 or facility.

15 (c) "Concentrated animal feeding operation" has the same meaning as
16 in 40 C.F.R. Sec. 122.23 (April 14, 2003), or as subsequently defined
17 in federal regulations adopted in rule by the state department of
18 agriculture.

19 (d) "Conservation commission" means the conservation commission
20 under chapter 89.08 RCW.

21 (e) "Conservation district" means a subdivision of state government
22 organized under chapter 89.08 RCW.

23 (f) "Eligible person" means a person: (i) Licensed to produce milk
24 under chapter 15.36 RCW who has a certified dairy nutrient management
25 plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding
26 operation and has a permit issued under chapter 90.48 RCW; (iii)
27 establishing or operating an anaerobic digester to treat primarily
28 livestock manure; or (iv) who owns a concentrated animal feeding
29 operation and has a nutrient management plan verified by a conservation
30 district as meeting natural resource conservation service practice
31 standards.

32 (g) "Livestock nutrient management equipment and facilities" or
33 "equipment and facilities" means machinery, equipment, and structures
34 used in the handling and treatment of livestock manure, such as
35 aerators, agitators, alley scrapers, augers, dams, gutter cleaners,
36 loaders, lagoons, pipes, pumps, separators, and tanks. The term also
37 includes tangible personal property that becomes an ingredient or

1 component of the equipment and facilities, including repair and
2 replacement parts.

3 (h) "Permit" means either a state waste discharge permit or a
4 national pollutant discharge elimination system permit, or both.

5 (i) "Primarily" means more than fifty percent measured by volume or
6 weight.

7 (j) "Qualifying investment project" means:

8 (i) Livestock nutrient management equipment and facilities;

9 (ii) Anaerobic digesters; or

10 (iii) Services rendered in respect to:

11 (A) Operating, repairing, cleaning, altering, or improving of
12 livestock nutrient management equipment and facilities, or to sales of
13 tangible personal property that becomes an ingredient or component of
14 the equipment and facilities; or

15 (B) Installing, constructing, repairing, cleaning, altering, or
16 improving an anaerobic digester, or to sales of tangible personal
17 property that becomes an ingredient or component of the anaerobic
18 digester.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW
20 to read as follows:

21 (1) Eligible persons who have paid use tax on qualifying investment
22 projects are eligible for an exemption in the form of a remittance.

23 (2)(a) A person claiming an exemption from tax in the form of a
24 remittance under this section must pay the tax imposed under RCW
25 82.12.020 or chapter 82.14 RCW. The buyer may then apply to the
26 department for remittance of all or part of the tax paid.

27 (b) The department shall on a quarterly basis remit exempted
28 amounts to qualifying persons who submitted applications during the
29 previous quarter.

30 (3) For the purposes of this section, the definitions, eligibility
31 requirements, and other conditions in section 1 of this act apply to
32 this section.

33 NEW SECTION. **Sec. 3.** The following acts or parts of acts are each
34 repealed:

35 (1) RCW 82.08.890 (Exemptions--Dairy nutrient management equipment
36 and facilities) and 2001 2nd sp.s. c 18 s 2;

1 (2) RCW 82.08.900 (Exemptions--Anaerobic digesters) and 2001 2nd
2 sp.s. c 18 s 4;

3 (3) RCW 82.12.890 (Exemptions--Dairy nutrient management equipment
4 and facilities) and 2003 c 5 s 15 & 2001 2nd sp.s. c 18 s 3; and

5 (4) RCW 82.12.900 (Exemptions--Anaerobic digesters) and 2003 c 5 s
6 16 & 2001 2nd sp.s. c 18 s 5.

7 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2006.

8 NEW SECTION. **Sec. 5.** This act does not affect any existing right
9 acquired or liability or obligation incurred under the sections amended
10 or repealed in this act or under any rule or order adopted under those
11 sections, nor does it affect any proceeding instituted under those
12 sections.

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