
SENATE BILL 5447

State of Washington 59th Legislature 2005 Regular Session

By Senators Prentice, Hewitt, Doumit, Honeyford, Mulliken and Rasmussen

Read first time 01/25/2005. Referred to Committee on Ways & Means.

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 a 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 survey 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, 2012.

28 NEW SECTION. **Sec. 6.** (1)(a) The legislature finds that
29 accountability and effectiveness are important aspects of setting tax
30 policy. In order to make policy choices regarding the best use of
31 limited state resources the legislature needs information on how a tax
32 incentive is used.

33 (b) Each recipient of a deferral granted under this chapter shall
34 complete an annual survey. If the economic benefits of the deferral
35 are passed to a lessee as provided in section 3(4) of this act, the

1 lessee shall complete the annual survey and the applicant is not
2 required to complete the annual survey. The survey is due by March
3 31st of the year following the calendar year in which the investment
4 project is certified by the department as having been operationally
5 complete and each of the seven succeeding calendar years. The survey
6 shall include the amount of tax deferred. The survey shall also
7 include the following information for employment positions in
8 Washington:

9 (i) The number of total employment positions;

10 (ii) Full-time, part-time, and temporary employment positions as a
11 percent of total employment;

12 (iii) The number of employment positions according to the following
13 wage bands: Less than thirty thousand dollars; thirty thousand dollars
14 or greater, but less than sixty thousand dollars; and sixty thousand
15 dollars or greater. A wage band containing fewer than three
16 individuals may be combined with another wage band; and

17 (iv) The number of employment positions that have employer-provided
18 medical, dental, and retirement benefits, by each of the wage bands.

19 (c) The department may request additional information necessary to
20 measure the results of the deferral program, to be submitted at the
21 same time as the survey.

22 (d) All information collected under this subsection, except the
23 amount of the tax deferral taken, is deemed taxpayer information under
24 RCW 82.32.330 and is not disclosable. Information on the amount of tax
25 deferral taken is not subject to the confidentiality provisions of RCW
26 82.32.330 and may be disclosed to the public upon request.

27 (e) The department shall use the information from this section to
28 prepare summary descriptive statistics by category. No fewer than
29 three taxpayers shall be included in any category. The department
30 shall report these statistics to the legislature each year by September
31 1st.

32 (f) The department shall also use the information to study the tax
33 deferral program authorized under this chapter. The department shall
34 report to the legislature by December 1, 2011. The report shall
35 measure the effect of the program on job creation, the number of jobs
36 created for residents of eligible areas, company growth, the
37 introduction of new products, the diversification of the state's

1 economy, growth in research and development investment, the movement of
2 firms or the consolidation of firms' operations into the state, and
3 such other factors as the department selects.

4 (2)(a) If, on the basis of a survey 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 shall be immediately due. The debt
8 for deferred taxes will not be extinguished by insolvency or other
9 failure of the recipient. Transfer of ownership does not terminate the
10 deferral. The deferral is transferred, subject to the successor
11 meeting the eligibility requirements of this chapter, for the remaining
12 periods of the deferral.

13 (b) If a recipient of the deferral fails to complete the annual
14 survey required under subsection (1) of this section by the date due,
15 twelve and one-half percent of the deferred tax shall be immediately
16 due.

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

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

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

27 NEW SECTION. **Sec. 9.** Applications received by the department
28 under this chapter are not confidential and are subject to disclosure.

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

31 (1) Wholesalers or third-party warehouseers who own or operate
32 warehouses or grain elevators and retailers who own or operate
33 distribution centers, and who have paid the tax levied by RCW 82.08.020
34 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 warehouse owners 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, 2007.

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