

**EHB 1902** - S COMM AMD

By Committee on Agriculture & Rural Economic Development

OUT OF ORDER 04/20/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 82.08.855 and 2006 c 172 s 1 are each amended to read  
4 as follows:

5 (1) The tax levied by RCW 82.08.020 does not apply to the sale to  
6 an eligible farmer of:

7 (a) Replacement parts for qualifying farm machinery and equipment;

8 (b) Labor and services rendered in respect to the installing of  
9 replacement parts exempt under (a) of this subsection, regardless of  
10 whether items excluded from the definition of replacement parts in  
11 subsection (3)(f)(ii) of this section are installed, incorporated, or  
12 placed in qualifying farm machinery and equipment during the course of  
13 the installation; and

14 (c) Labor and services rendered in respect to the repairing of  
15 qualifying farm machinery and equipment, provided that during the  
16 course of repairing no tangible personal property is installed,  
17 incorporated, or placed in, or becomes an ingredient or component of,  
18 the qualifying farm machinery and equipment other than: (i)  
19 Replacement parts exempt under (a) of this subsection; and (ii) items  
20 excluded from the definition of replacement parts in subsection  
21 (3)(f)(ii) of this section.

22 ~~(2) ((Notwithstanding anything to the contrary in this chapter, if~~  
23 ~~replacement parts are installed by the seller during the course of~~  
24 ~~repairing, cleaning, altering, or improving qualifying farm machinery~~  
25 ~~and equipment and the seller makes a separate charge for the parts, the~~  
26 ~~tax levied by RCW 82.08.020 does not apply to the separately stated~~  
27 ~~charge to an eligible farmer for replacement parts but only if the~~  
28 ~~separately stated charge does not exceed either the seller's current~~  
29 ~~publicly stated retail price for the parts or, if no separately stated~~  
30 ~~retail price is available, the seller's cost for the parts. However,~~

1 ~~the exemption provided by this section shall not apply if replacement~~  
2 ~~parts are installed by the seller during the course of repairing,~~  
3 ~~cleaning, altering, or improving qualifying farm machinery and~~  
4 ~~equipment and the seller makes a single nonitemized charge for~~  
5 ~~providing the parts and service.~~

6 (3)))(a) A person claiming an exemption under this section must  
7 keep records necessary for the department to verify eligibility under  
8 this section. An exemption is available only when the buyer provides  
9 the seller with an exemption certificate issued by the department  
10 containing such information as the department requires. The exemption  
11 certificate shall be in a form and manner prescribed by the department.  
12 The seller shall retain a copy of the certificate for the seller's  
13 files.

14 (b) The department shall provide an exemption certificate to an  
15 eligible farmer or renew an exemption certificate, upon application by  
16 that eligible farmer. The application must be in a form and manner  
17 prescribed by the department and shall contain the following  
18 information as required by the department:

19 (i) The name and address of the applicant;

20 (ii) The uniform business identifier or tax reporting account  
21 number of the applicant, if the applicant is required to be registered  
22 with the department;

23 (iii) The type of farming engaged in;

24 (iv) Either a copy of the applicant's information as provided in  
25 (b)(iv)(A) of this subsection or a declaration as provided in  
26 (b)(iv)(B) of this subsection, as elected by the applicant.

27 (A) A copy of the applicant's Schedule F of Form 1040, Form 1120,  
28 or other applicable form filed with the internal revenue service  
29 indicating the gross sales of agricultural products by the applicant in  
30 the calendar year immediately preceding the year that the application  
31 was made to the department. If application is made before the due date  
32 of the applicant's federal income tax return for the prior calendar  
33 year, or any extension of the due date, the applicant shall provide a  
34 copy of the appropriate federal income tax form that was due for the  
35 second calendar year immediately preceding the year that the  
36 application is made to the department. If the applicant is not  
37 required to file federal income tax returns, the department may require

1 the applicant to provide copies of other documents establishing the  
2 amount of the applicant's gross sales of agricultural products for the  
3 relevant calendar year;

4 (B) A declaration signed under penalty of perjury as provided in  
5 RCW 9A.72.085 that the applicant is an eligible farmer as defined in  
6 subsection (3)(b) of this section. Any person who knowingly makes a  
7 materially false statement on an application submitted to the  
8 department under the provisions of this section shall be guilty of  
9 perjury in the second degree under chapter 9A.72 RCW. In addition, the  
10 person is liable for payment of any taxes for which an exemption under  
11 this section was claimed, with interest at the rate provided for  
12 delinquent taxes, retroactively to the date the exemption was claimed,  
13 and penalties as provided under chapter 82.32 RCW;

14 (v) The name of the individual authorized to sign the certificate,  
15 printed in a legible fashion;

16 (vi) The signature of the authorized individual; and

17 (vii) Other information the department may require to verify the  
18 applicant's eligibility for the exemption.

19 (c)(i) Except as otherwise provided in this section, exemption  
20 certificates take effect on the date issued by the department are not  
21 transferable and are valid for the remainder of the calendar year in  
22 which the certificate is issued and the following four calendar years.  
23 The department shall attempt to notify holders of exemption  
24 certificates of the impending expiration of the certificate at least  
25 sixty days before the certificate expires and shall provide an  
26 application for renewal of the certificate.

27 (ii) When a certificate holder merely changes identity or form of  
28 ownership of an entity and there is no change in beneficial ownership,  
29 the exemption certificate shall be transferred to the new entity upon  
30 notice to the department by the transferor or transferee.

31 (d)(i) Exemption certificates issued to persons who are eligible  
32 farmers under subsection ~~((+4))~~ (3)(b)(iii) of this section are  
33 conditioned on the person making at least ten thousand dollars of gross  
34 sales of agricultural products grown, raised, or produced by that  
35 person in the first full calendar year that the person engages in  
36 business as a farmer.

37 (ii) A person who is issued a conditional exemption certificate  
38 must provide the department with a copy of the person's Schedule F of

1 Form 1040, Form 1120, or other applicable form filed with the internal  
2 revenue service indicating the gross sales of agricultural products by  
3 the person in the first full calendar year that the person engaged in  
4 business as a farmer. If a person is not required to file federal  
5 income tax returns, the person shall provide copies of other documents  
6 establishing the amount of the person's gross sales of agricultural  
7 products for the first full calendar year that the person engaged in  
8 business as a farmer. The documentation required in this subsection  
9 ~~((+3))~~ (2)(d)(ii) is due no later than December 31st of the year  
10 immediately following the first full calendar year in which the person  
11 engaged in business as a farmer.

12 (iii) If a person fails to provide the required documentation to  
13 the department by the due date or any extension granted by the  
14 department, or if the condition in (d)(i) of this subsection is not  
15 met, the department shall revoke the exemption certificate. The  
16 department shall notify the person in writing of the revocation and the  
17 person's responsibility, and due date, for ~~((repayment))~~ payment of any  
18 taxes for which an exemption under this section was claimed. Any taxes  
19 for which an exemption under this section was claimed shall be due and  
20 payable within thirty days of the date of the notice revoking the  
21 certificate. The department shall assess interest on the taxes for  
22 which the exemption was claimed. Interest shall be assessed at the  
23 rate provided for delinquent excise taxes under chapter 82.32 RCW,  
24 retroactively to the date the exemption was claimed, and shall accrue  
25 until the taxes for which the exemption was claimed are repaid.  
26 Penalties shall not be imposed on any tax required to be repaid if full  
27 payment is received by the due date. Nothing in this subsection  
28 ~~((+3))~~ (2)(d) prohibits a person from reapplying for an exemption  
29 certificate.

30 ~~((+4))~~ (3) The definitions in this subsection apply to this  
31 section.

32 (a) "Agricultural products" has the meaning provided in RCW  
33 82.04.213.

34 (b) "Eligible farmer" means:

35 (i) A farmer as defined in RCW 82.04.213 whose gross proceeds of  
36 sales or harvested value of agricultural products grown, raised, or  
37 produced by that person is at least ten thousand dollars in the

1 calendar year immediately preceding the year in which ~~((a claim of~~  
2 ~~exemption is made under this section))~~ an application for exemption  
3 under this section is submitted to the department;

4 (ii) The transferee of an exemption certificate under subsection  
5 ~~((3))~~ (2)(c)(ii) of this section where the transferred certificate  
6 expires before the transferee engages in farming operations for a full  
7 calendar year, if the combined gross proceeds of sales ~~((by))~~ or  
8 harvested value of agricultural products that the transferor and  
9 transferee ~~((of agricultural products that they))~~ have grown, raised,  
10 or produced meet the requirements of (b)(i) of this subsection;

11 (iii) A farmer as defined in RCW 82.04.213, who does not meet the  
12 definition of "eligible farmer" in (b)(i) or (ii) of this subsection,  
13 and who did not engage in farming for the entire calendar year  
14 immediately preceding the year in which application for exemption under  
15 this section is made and who did not engage in farming in any other  
16 year;

17 (iv) Anyone who otherwise meets the definition of "eligible farmer"  
18 in this subsection except that they are not a "person" as defined in  
19 RCW 82.04.030.

20 (c) "Farm vehicle" has the same meaning as in RCW 46.04.181.

21 (d) "Harvested value" means the number of units of the agricultural  
22 product that were grown, raised, or produced, multiplied by the average  
23 sales price of the agricultural product. For purposes of this  
24 subsection (3)(d), "average sales price" means the average price per  
25 unit of agricultural product received by farmers in this state as  
26 reported by the United States department of agriculture's national  
27 agricultural statistics service for the twelve-month period that  
28 coincides with, or that begins or ends closest to, the calendar year  
29 immediately preceding the calendar year during which an application for  
30 exemption under this section is submitted to the department or the  
31 first full calendar year during which a person engages in business as  
32 a farmer, as the case may be, regardless of whether the prices are  
33 subject to revision. If the price per unit of an agricultural product  
34 received by farmers in this state is not available from the national  
35 agricultural statistics service, average sales price may be determined  
36 by using the average price per unit of agricultural product received by  
37 farmers in this state as reported by a recognized authority for the  
38 agricultural product.

1       (e) "Qualifying farm machinery and equipment" means machinery and  
2 equipment used primarily for growing, raising, or producing  
3 agricultural products. "Qualifying farm machinery and equipment" does  
4 not include:

5       (i) ~~((Farm vehicles and other))~~ Vehicles as ((those terms are  
6 defined in chapter 46.04 RCW, except)) defined in RCW 46.04.670, other  
7 than farm tractors as defined in RCW 46.04.180, farm vehicles, and  
8 other farm implements. For purposes of this subsection ((4)(e))  
9 (3)(e)(i), "farm implement" means machinery or equipment manufactured,  
10 designed, or reconstructed for agricultural purposes and used primarily  
11 by an eligible farmer to grow, raise, or produce agricultural products,  
12 but does not include lawn tractors and all-terrain vehicles;

13       (ii) Aircraft;

14       (iii) Hand tools and hand-powered tools; and

15       (iv) Property with a useful life of less than one year.

16       ~~((d))~~ (f)(i) "Replacement parts" means those parts that replace  
17 an existing part, or which are essential to maintain the working  
18 condition, of a piece of qualifying farm machinery or equipment.  
19 ~~((However,))~~

20       (ii) "Replacement parts" ~~((shall))~~ do not include paint, fuel, oil,  
21 grease, hydraulic fluids, antifreeze, and similar items.

22       **Sec. 2.** RCW 82.12.855 and 2006 c 172 s 2 are each amended to read  
23 as follows:

24       (1) The provisions of this chapter do not apply in respect to the  
25 use by an eligible farmer of:

26       (a) Replacement parts for qualifying farm machinery and equipment;

27       (b) Labor and services rendered in respect to the installing of  
28 replacement parts exempt under (a) of this subsection, regardless of  
29 whether items excluded from the definition of replacement parts in RCW  
30 82.08.855(3)(f)(ii) are installed, incorporated, or placed in  
31 qualifying farm machinery and equipment during the course of the  
32 installation; and

33       (c) Labor and services rendered in respect to the repairing of  
34 qualifying farm machinery and equipment, provided that during the  
35 course of repairing no tangible personal property is installed,  
36 incorporated, or placed in, or becomes a component of, the qualifying

1 farm machinery and equipment other than: (i) Replacement parts exempt  
2 under (a) of this subsection; and (ii) items excluded from the  
3 definition of replacement parts in RCW 82.08.855(3)(f)(ii).

4 ~~(2) ((Notwithstanding anything to the contrary in this chapter, if~~  
5 ~~replacement parts are installed by the seller during the course of~~  
6 ~~repairing, cleaning, altering, or improving qualifying farm machinery~~  
7 ~~and equipment and the seller makes a separate charge for the parts, the~~  
8 ~~tax imposed by this chapter does not apply to the separately stated~~  
9 ~~charge to an eligible farmer for replacement parts but only if the~~  
10 ~~separately stated charge does not exceed either the seller's current~~  
11 ~~publicly stated retail price for the parts or, if no separately stated~~  
12 ~~retail price is available, the seller's cost for the parts. However,~~  
13 ~~the exemption provided by this section shall not apply if replacement~~  
14 ~~parts are installed by the seller during the course of repairing,~~  
15 ~~cleaning, altering, or improving qualifying farm machinery and~~  
16 ~~equipment and the seller makes a single nonitemized charge for~~  
17 ~~providing the parts and service.~~

18 ~~(3))~~ The definitions and recordkeeping requirements in RCW  
19 82.08.855, other than the exemption certificate requirement, apply to  
20 this section."

**EHB 1902** - S COMM AMD  
By Committee on Agriculture & Rural Economic Development

**OUT OF ORDER 04/20/2007**

21 On page 1, line 2 of the title, after "equipment;" strike the  
22 remainder of the title and insert "amending RCW 82.08.855 and  
23 82.12.855; and prescribing penalties."

--- END ---