
SENATE BILL 5906

State of Washington

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By Senators Pridemore and Kline

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1 AN ACT Relating to modifying the business and occupation tax on
2 wholesalers of solar energy systems and sales and use tax treatment of
3 semiconductor materials; amending RCW 82.04.294, 82.08.965, 82.08.9651,
4 and 82.12.9651; and amending 2006 c 300 s 12 (uncodified).

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

6 **Sec. 1.** RCW 82.04.294 and 2007 c 54 s 8 are each amended to read
7 as follows:

8 (1)(a) Beginning October 1, 2005, upon every person engaging within
9 this state in the business of manufacturing solar energy systems using
10 photovoltaic modules, or of manufacturing solar grade silicon to be
11 used exclusively in components of such systems; as to such persons the
12 amount of tax with respect to such business shall, in the case of
13 manufacturers, be equal to the value of the product manufactured, or in
14 the case of processors for hire, be equal to the gross income of the
15 business, multiplied by the rate of 0.2904 percent.

16 (b) Beginning October 1, 2009, upon every person engaging within
17 this state in the business of manufacturing solar energy systems using
18 photovoltaic modules, or of manufacturing solar grade silicon, silicon
19 solar wafers, silicon solar cells, thin film solar devices, or compound

1 semiconductor solar wafers to be used exclusively in components of such
2 systems; as to such persons the amount of tax with respect to such
3 business is, in the case of manufacturers, equal to the value of the
4 product manufactured, or in the case of processors for hire, equal to
5 the gross income of the business, multiplied by the rate of 0.275
6 percent.

7 (2)(a) Beginning October 1, 2005, upon every person engaging within
8 this state in the business of making sales at wholesale of solar energy
9 systems using photovoltaic modules, or of solar grade silicon to be
10 used exclusively in components of such systems, manufactured by that
11 person; as to such persons the amount of tax with respect to such
12 business shall be equal to the gross proceeds of sales of the solar
13 energy systems using photovoltaic modules, or of the solar grade
14 silicon to be used exclusively in components of such systems,
15 multiplied by the rate of 0.2904 percent.

16 (b) Beginning October 1, 2009, upon every person engaging within
17 this state in the business of making sales at wholesale of solar energy
18 systems using photovoltaic modules, or of solar grade silicon, silicon
19 solar wafers, silicon solar cells, thin film solar devices, or compound
20 semiconductor solar wafers to be used exclusively in components of such
21 systems, manufactured by that person; as to such persons the amount of
22 tax with respect to such business is equal to the gross proceeds of
23 sales of the solar energy systems using photovoltaic modules, or of the
24 solar grade silicon to be used exclusively in components of such
25 systems, multiplied by the rate of 0.275 percent.

26 (3) Beginning October 1, 2009, silicon solar wafers, silicon solar
27 cells, thin film solar devices, or compound semiconductor solar wafers
28 are "semiconductor materials" for the purposes of RCW 82.08.965,
29 82.08.9651, 82.12.965, and 82.12.9651.

30 (4) The definitions in this subsection apply throughout this
31 section.

32 (a) "Compound semiconductor solar wafers" means a semiconductor
33 solar wafer composed of elements from two or more different groups of
34 the periodic table.

35 (b) "Module" means the smallest nondivisible self-contained
36 physical structure housing interconnected photovoltaic cells and
37 providing a single direct current electrical output.

1 (~~(b)~~) (c) "Photovoltaic cell" means a device that converts light
2 directly into electricity without moving parts.

3 (~~(e)~~) (d) "Silicon solar cells" means a photovoltaic cell
4 manufactured from a silicon solar wafer.

5 (e) "Silicon solar wafers" means a silicon wafer manufactured for
6 solar conversion purposes.

7 (f) "Solar energy system" means any device or combination of
8 devices or elements that rely upon direct sunlight as an energy source
9 for use in the generation of electricity.

10 (~~(d)~~) (g) "Solar grade silicon" means high-purity silicon used
11 exclusively in components of solar energy systems using photovoltaic
12 modules to capture direct sunlight. "Solar grade silicon" does not
13 include silicon used in semiconductors.

14 (~~(4)~~) (h) "Thin film solar devices" means a nonparticipating
15 substrate on which various semiconducting materials are deposited to
16 produce a photovoltaic cell that is used to generate electricity.

17 (5) This section expires June 30, 2014.

18 **Sec. 2.** RCW 82.08.965 and 2003 c 149 s 5 are each amended to read
19 as follows:

20 (1) The tax levied by RCW 82.08.020 (~~shall~~) does not apply to
21 charges made for labor and services rendered in respect to the
22 constructing of new buildings used for the manufacturing of
23 semiconductor materials, to sales of tangible personal property that
24 will be incorporated as an ingredient or component of such buildings
25 during the course of the constructing, or to labor and services
26 rendered in respect to installing, during the course of constructing,
27 building fixtures not otherwise eligible for the exemption under RCW
28 82.08.02565(2)(b). The exemption is available only when the buyer
29 provides the seller with an exemption certificate in a form and manner
30 prescribed by the department. The seller shall retain a copy of the
31 certificate for the seller's files.

32 (2) To be eligible under this section the manufacturer or processor
33 for hire must meet the following requirements for an eight-year period,
34 such period beginning the day the new building commences commercial
35 production, or a portion of tax otherwise due shall be immediately due
36 and payable pursuant to subsection (3) of this section:

1 (a) The manufacturer or processor for hire must maintain at least
2 seventy-five percent of full employment at the new building for which
3 the exemption under this section is claimed.

4 (b) Before commencing commercial production at a new facility the
5 manufacturer or processor for hire must meet with the department to
6 review projected employment levels in the new buildings. The
7 department, using information provided by the taxpayer, shall make a
8 determination of the number of positions that would be filled at full
9 employment. This number shall be used throughout the eight-year period
10 to determine whether any tax is to be repaid. This information is not
11 subject to the confidentiality provisions of RCW 82.32.330 and may be
12 disclosed to the public upon request.

13 (c) In those situations where a production building in existence on
14 the effective date of this section will be phased out of operation
15 during which time employment at the new building at the same site is
16 increased, the manufacturer or processor for hire shall maintain
17 seventy-five percent of full employment at the manufacturing site
18 overall.

19 (d) No application is necessary for the tax exemption. The person
20 is subject to all the requirements of chapter 82.32 RCW. A person
21 taking the exemption under this section must report as required under
22 RCW 82.32.535.

23 (3) If the employment requirement is not met for any one calendar
24 year, one-eighth of the exempt sales and use taxes shall be due and
25 payable by April 1st of the following year. The department shall
26 assess interest to the date the tax was imposed, but not penalties, on
27 the taxes for which the person is not eligible.

28 (4) The exemption applies to new buildings, or parts of buildings,
29 that are used exclusively in the manufacturing of semiconductor
30 materials, including the storage of raw materials and finished product.

31 (5) For the purposes of this section:

32 (a) "Commencement of commercial production" is deemed to have
33 occurred when the equipment and process qualifications in the new
34 building are completed and production for sale has begun; and

35 (b) "Full employment" is the number of positions required for full
36 capacity production at the new building, for positions such as line
37 workers, engineers, and technicians.

1 (c) "Semiconductor materials" has the same meaning as provided in
2 RCW 82.04.240(2) and 82.04.294(3).

3 (6) No exemption may be taken after twelve years after the
4 effective date of this act, however all of the eligibility criteria and
5 limitations are applicable to any exemptions claimed before that date.

6 (7) This section expires twelve years after the effective date of
7 this act.

8 **Sec. 3.** RCW 82.08.9651 and 2006 c 84 s 3 are each amended to read
9 as follows:

10 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
11 gases and chemicals used by a manufacturer or processor for hire in the
12 production of semiconductor materials. This exemption is limited to
13 gases and chemicals used in the production process to grow the product,
14 deposit or grow permanent or sacrificial layers on the product, to etch
15 or remove material from the product, to anneal the product, to immerse
16 the product, to clean the product, and other such uses whereby the
17 gases and chemicals come into direct contact with the product during
18 the production process, or uses of gases and chemicals to clean the
19 chambers and other like equipment in which such processing takes place.
20 For the purposes of this section, "semiconductor materials" has the
21 meaning provided in RCW 82.04.2404 and 82.04.294(3).

22 (2) A person taking the exemption under this section must report
23 under RCW 82.32.5351. No application is necessary for the tax
24 exemption. The person is subject to all of the requirements of chapter
25 82.32 RCW.

26 (3) This section expires twelve years after December 1, 2006.

27 **Sec. 4.** RCW 82.12.9651 and 2006 c 84 s 4 are each amended to read
28 as follows:

29 (1) The provisions of this chapter do not apply with respect to the
30 use of gases and chemicals used by a manufacturer or processor for hire
31 in the production of semiconductor materials. This exemption is
32 limited to gases and chemicals used in the production process to grow
33 the product, deposit or grow permanent or sacrificial layers on the
34 product, to etch or remove material from the product, to anneal the
35 product, to immerse the product, to clean the product, and other such
36 uses whereby the gases and chemicals come into direct contact with the

1 product during the production process, or uses of gases and chemicals
2 to clean the chambers and other like equipment in which such processing
3 takes place. For purposes of this section, "semiconductor materials"
4 has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

5 (2) A person taking the exemption under this section must report
6 under RCW 82.32.5351. No application is necessary for the tax
7 exemption. The person is subject to all of the requirements of chapter
8 82.32 RCW.

9 (3) This section expires twelve years after December 1, 2006.

10 **Sec. 5.** 2006 c 300 s 12 (uncodified) is amended to read as
11 follows:

12 (1)(a) (~~(This act and)~~) Section 2, chapter . . ., Laws of 2009
13 (section 2 of this act), section 7, chapter 300, Laws of 2006, and
14 section 4, chapter 149, Laws of 2003 are contingent upon the siting and
15 commercial operation of a significant semiconductor microchip
16 fabrication facility in the state of Washington.

17 (b) For the purposes of this section:

18 (i) "Commercial operation" means the same as "commencement of
19 commercial production" as used in RCW 82.08.965.

20 (ii) "Semiconductor microchip fabrication" means "manufacturing
21 semiconductor microchips" as defined in RCW 82.04.426.

22 (iii) "Significant" means the combined investment of new buildings
23 and new machinery and equipment in the buildings, at the commencement
24 of commercial production, will be at least one billion dollars.

25 (2) (~~(This act)~~) Chapter 149, Laws of 2003 takes effect the first
26 day of the month in which a contract for the construction of a
27 significant semiconductor fabrication facility is signed, as determined
28 by the director of the department of revenue.

29 (3)(a) The department of revenue (~~(shall)~~) must provide notice of
30 the effective date of this act to affected taxpayers, the legislature,
31 and others as deemed appropriate by the department.

32 (b) If, after making a determination that a contract has been
33 signed and (~~(this act)~~) chapter 149, Laws of 2003 is effective, the
34 department discovers that commencement of commercial production did not
35 take place within three years of the date the contract was signed, the
36 department (~~(shall)~~) must make a determination that (~~(this act)~~)
37 chapter 149, Laws of 2003 is no longer effective, and all taxes that

1 would have been otherwise due (~~shall be~~) are deemed deferred taxes
2 and are immediately assessed and payable from any person reporting tax
3 under RCW 82.04.240(2) or claiming an exemption or credit under section
4 2 or 5 through 10 (~~of this act~~), chapter 149, Laws of 2003. The
5 department is not authorized to make a second determination regarding
6 the effective date of (~~this act~~) chapter 149, Laws of 2003.

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