
SENATE BILL 5997

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By Senators Murray, Parlette, Holmquist, Hobbs, Prentice, Schoesler, Hatfield, Hewitt, Shin, and Franklin

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1 AN ACT Relating to providing sales and use tax exemptions to
2 eligible data centers located in a rural county as defined in RCW
3 82.14.370(5); adding a new section to chapter 82.08 RCW; and adding a
4 new section to chapter 82.12 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
7 to read as follows:

8 (1) An exemption from the tax imposed by RCW 82.08.020 is provided
9 for sales to qualifying businesses of server equipment, to be
10 installed, in an eligible computer data center, and for sales of labor
11 and services rendered in respect to installing such server equipment.
12 The exemption also applies to the sales of temperature and climate
13 control infrastructure and power infrastructure, including labor and
14 services rendered in respect to constructing, installing, repairing,
15 altering, or improving such infrastructure.

16 (2)(a) A person claiming the exemption under this section must
17 present the seller with an exemption certificate in a form and manner
18 prescribed by the department. The seller must retain a copy of the

1 certificate for the seller's files. A seller's failure to retain a
2 copy of the certificate does not disqualify the buyer's exemption
3 claim.

4 (b) In order to claim the exemption under this act, a qualifying
5 business must submit an application to the department. The application
6 must include the information necessary, as required by the department,
7 to determine that a business qualifies for the exemption under this
8 act. The department must issue a decision on the application within
9 ninety days of receipt. If the department fails to issue a decision,
10 the application for the exemption is deemed to have been approved.

11 (c) In the event that the person claiming the exemption did not
12 claim the exemption in advance of the first qualifying purchase and
13 paid the vendor the sales tax, the department must accept an
14 application after the purchase for purposes of refunding the sales tax
15 paid on the equipment and services described in subsection (1) of this
16 section. The department must issue a decision on the application
17 within ninety days of receipt. If the department fails to issue a
18 decision, the application for the exemption is deemed to have been
19 approved.

20 (3) A person who claims an exemption under this section must make
21 an annual report to the department.

22 (a) This report must include:

23 (i) Information detailing employment, wages, and employer-provided
24 health and retirement benefits per job;

25 (ii) Employment by the number of full-time and part-time positions;
26 and

27 (iii) The cost of qualifying expenditures for the eligible computer
28 data center.

29 (b) The first report filed under this subsection must include
30 employment, wage, and benefit information for the twelve-month period
31 immediately before the installation of any equipment described in
32 subsection (1) of this section.

33 (c) Subsequent reports are due by March 31st following the year the
34 eligible computer data center is first placed in commercial service or
35 in the case of a computer data center placed into commercial service
36 prior to the effective date of this act, then the report is due by
37 March 31st following the year of the installation of any equipment
38 described in subsection (1) of this section. The report must be filed

1 annually for the period the eligible computer data center, or the
2 equipment described in subsection (1) of this section that was
3 installed in a computer data center existing prior to the effective
4 date of this act, remains in commercial service.

5 (d) Employment, wage, and benefit information is not subject to the
6 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
7 public upon request.

8 (4) If a person fails to fulfill the requirements of this section,
9 the department must declare the amount of taxes exempted under this
10 section immediately due and payable. However, the department may not
11 declare the amount of taxes immediately due and payable if the failure
12 was the result of illness, death, natural disasters, or unforeseen
13 computer system failures. Excise taxes payable under this section are
14 subject to interest, as provided under this chapter. Requirements
15 under this section exclusively include:

16 (a) The person must submit an annual report as required by
17 subsection (3) of this section.

18 (b) The person must increase employment in the state by a minimum
19 of thirty-five family wage jobs no later than six years after the
20 installation of equipment of the computer data center. For purposes of
21 the report required by this section, family wage jobs are new permanent
22 employment positions requiring forty hours of weekly work, or their
23 equivalent, on a full-time basis and paying a wage equivalent to or
24 greater than one hundred fifty percent of the per capita personal
25 income of the county in which the qualified project is located. The
26 person must provide health insurance coverage for the employee.

27 This requirement does not apply to existing computer data centers
28 if the equipment and services are those described in subsection (1) of
29 this section and are for the purpose of refreshing, maintaining, or
30 replacing existing equipment due to changes in technology,
31 obsolescence, or defect.

32 (c) No later than six years following the date the eligible
33 computer data center begins to provide commercial service, or the date
34 the installation of the equipment is final, the person must document
35 qualifying expenditures equal to or exceeding two hundred million
36 dollars.

37 (5) For purposes of this section:

1 (a) "Commercial service" means the point at which the equipment
2 described in subsection (1) of this section becomes operational for its
3 intended purposes and excludes testing or other activities in
4 preparation for the same to become operational.

5 (b) "Computer data center" means a facility comprised of one or
6 more buildings constructed or refurbished specifically, and used
7 primarily, to house servers and related equipment and support staff,
8 where the facility has the following characteristics:

9 (i) Uninterruptible power supplies, generator backup power, or
10 both;

11 (ii) Sophisticated fire suppression and prevention systems; and

12 (iii) Enhanced physical security, such as: (A) Restricted access
13 to the facility to selected personnel; (B) permanent security guards;
14 video camera surveillance; or an electronic system requiring passcodes,
15 keycards, or biometric scans, such as hand scans and retinal or
16 fingerprint recognition; or (C) security features similar to those in
17 (b)(iii)(A) and (B) of this subsection (5). A computer data center
18 includes, but is not limited to, a web search portal business.

19 (c) "Store or manage electronic data" includes, but is not limited
20 to: Providing data storage and backup services, providing computer
21 processing power, and hosting enterprise software applications. The
22 term also includes hosting web sites that provide free or subscription
23 services such as e-mail, web browsing and searching, media
24 applications, and other related online services.

25 (d) "Eligible computer data center" means a physical location in
26 the state consisting of a single parcel of real property or adjacent
27 parcels of real property owned by the same taxpayer, acquired or
28 improved through construction of a computer data center with at least
29 twenty thousand square feet of floor space dedicated to housing working
30 servers and located in a rural county as defined in RCW 82.14.370(5).

31 (e) "Installation of equipment" means when the first piece of
32 equipment described in subsection (1) of this section is installed at
33 the site and ordering the equipment, preparing the equipment for
34 installation, or other activities in preparation for the installation
35 of such equipment.

36 (f) "Power infrastructure" means all fixtures, equipment, and
37 facilities necessary for the transformation, distribution, or
38 management of electricity at an eligible data center. The term

1 includes, but is not limited to, exterior taxpayer-owned electrical
2 substations, generators, wiring, back-up power generation systems,
3 battery systems, and related infrastructure and cogeneration equipment.

4 (g)(i) "Qualifying business" means a business entity that: Exists
5 for the primary purpose of engaging in commercial activity for profit;
6 and purchases server equipment, power infrastructure, or temperature
7 and climate control infrastructure on or after July 1, 2011, for use in
8 a computer data center.

9 (ii) For purposes of this definition, "business entity" means a
10 corporation, other than a municipal, quasi-municipal, and public or
11 other corporation created by the state or federal government, tribal
12 government, municipality, or political subdivision of the state;
13 association; limited liability company; partnership, including general
14 partnership, limited partnership, and limited liability partnership; or
15 other legal entity. Consistent with this definition, "business entity"
16 does not include the state or federal government or any of their
17 departments, agencies, and institutions; tribal governments; and
18 political subdivisions of this state.

19 (h) "Qualifying expenditure" means an investment in real and
20 personal property of two hundred million dollars for capital expenses
21 including, but not limited to, land acquisition, preparation, and
22 improvement, facility design, engineering and construction, and
23 installation of server equipment, temperature and climate control
24 infrastructure, and power infrastructure. Expenditures made prior to
25 July 1, 2011, are deemed qualifying expenditures for purposes of
26 determining eligibility of a computer data center for the exemption
27 offered under this chapter.

28 (i) "Server" includes:

29 (i) Blade or rack-mount servers and means a computer that is used
30 in a computer data center solely to store or manage electronic data, to
31 provide internet access, navigation, or search functions for the owner
32 or lessee of the computer data center, or for clients of the owner or
33 lessee of the computer data center, or both; or

34 (ii) Computers used for research and development to support
35 capabilities to store or manage electronic data or provide internet
36 access, navigation, or search functions.

37 (j) "Server equipment" means the server chassis and all computer
38 hardware and software contained within the server chassis. Consistent

1 with this definition, "server equipment" includes the racks upon which
2 the server chassis is installed, cables, and computer peripherals such
3 as keyboards, monitors, printers, mice, and other devices that work
4 outside of the computer.

5 (k) "Temperature and climate control infrastructure" means all
6 fixtures, equipment, and facilities necessary for controlling the
7 temperature and humidity at an eligible computer data center. The term
8 includes heating, ventilation, and air conditioning fixtures and
9 equipment; cooling systems; cooling towers; temperature sensors;
10 humidity sensors; fans; and perforated floor tiles.

11 (l) "Web search portal business" means an entity among whose
12 primary business is to provide a content and search portal to organize
13 information; to access, search, or navigate the internet, including
14 researching or developing technologies to support capabilities to
15 organize information; and to provide internet access, navigation, and
16 search functionalities.

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

19 (1) An exemption from the tax imposed by RCW 82.12.020 is provided
20 for sales to qualifying businesses of server equipment, to be
21 installed, in an eligible computer data center, and to charges made for
22 labor and services rendered in respect to installing such server
23 equipment. The exemption also applies to the sales of temperature and
24 climate control infrastructure and power infrastructure, including
25 labor and services rendered in respect to constructing, installing,
26 repairing, altering, or improving such infrastructure. However, this
27 exemption does not apply if the server equipment is withdrawn from an
28 eligible computer data center and not reused in an eligible computer
29 data center. Such item must be taxed at its fair market value at the
30 time of first taxable use in Washington.

31 (2) In order to claim the exemption under this act, a qualifying
32 business must submit an application to the department. The application
33 must include the information necessary, as required by the department,
34 to determine that a business qualifies for the exemption under this
35 act. The department must issue a decision on the application within
36 ninety days of its receipt. If the department fails to issue a

1 decision, the application for the exemption is deemed to have been
2 approved.

3 (3) The definitions in section 1 of this act apply to this section.

4 (4) If a person fails to fulfill the requirements of section 1 of
5 this act, all taxes exempt under this section become immediately due
6 and payable. Excise taxes payable under this section are subject to
7 interest, as provided under this chapter.

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