
SENATE BILL 6763

State of Washington 61st Legislature 2010 Regular Session

By Senators Rockefeller, Prentice, Tom, and Kline

Read first time 01/25/10. Referred to Committee on Ways & Means.

1 AN ACT Relating to restricting the sales and use tax exemptions for
2 machinery and equipment used in the generation of renewable energy to
3 local electric utilities or persons contracting with local electric
4 utilities; amending RCW 82.08.962 and 82.12.962; and providing an
5 effective date.

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

7 **Sec. 1.** RCW 82.08.962 and 2009 c 469 s 101 are each amended to
8 read as follows:

9 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
10 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
11 directly in generating electricity using fuel cells, wind, sun, biomass
12 energy, tidal or wave energy, geothermal resources, anaerobic
13 digestion, technology that converts otherwise lost energy from exhaust,
14 or landfill gas as the principal source of power, or to sales of or
15 charges made for labor and services rendered in respect to installing
16 such machinery and equipment, are eligible for an exemption as provided
17 in this section, but only if the purchaser develops with such
18 machinery, equipment, and labor a facility capable of generating not
19 less than one thousand watts of electricity.

1 (b) Beginning on July 1, 2009, through June 30, (~~2011~~) 2010, the
2 tax levied by RCW 82.08.020 does not apply to the sale of machinery and
3 equipment described in (a) of this subsection that are used directly in
4 generating electricity or to sales of or charges made for labor and
5 services rendered in respect to installing such machinery and
6 equipment.

7 (c) Beginning on July 1, 2010, through June 30, 2011, the tax
8 levied by RCW 82.08.020 does not apply to the sale to a local electric
9 utility, or to a person contracting with a local electric utility for
10 the sale of electric power generated by a facility containing machinery
11 and equipment, of machinery and equipment described in (a) of this
12 subsection that are used directly in generating electricity or to sales
13 of or charges made for labor and services rendered in respect to
14 installing such machinery and equipment.

15 (d) Beginning on July 1, 2011, through June 30, 2013, the amount of
16 the exemption under this subsection (1) is equal to seventy-five
17 percent of the state and local sales tax paid by a local electric
18 utility, or to a person contracting with a local electric utility for
19 the sale of electric power generated by a facility containing machinery
20 and equipment. The purchaser is eligible for an exemption under this
21 subsection (1)(~~(e)~~) (d) in the form of a remittance.

22 (2) For purposes of this section and RCW 82.12.962, the following
23 definitions apply:

24 (a) "Biomass energy" includes: (i) By-products of pulping and wood
25 manufacturing process; (ii) animal waste; (iii) solid organic fuels
26 from wood; (iv) forest or field residues; (v) wooden demolition or
27 construction debris; (vi) food waste; (vii) liquors derived from algae
28 and other sources; (viii) dedicated energy crops; (ix) biosolids; and
29 (x) yard waste. "Biomass energy" does not include wood pieces that
30 have been treated with chemical preservatives such as creosote,
31 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
32 forests; or municipal solid waste.

33 (b) "Fuel cell" means an electrochemical reaction that generates
34 electricity by combining atoms of hydrogen and oxygen in the presence
35 of a catalyst.

36 (c) "Landfill gas" means biomass fuel, of the type qualified for
37 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal

1 internal revenue code, collected from a "landfill" as defined under RCW
2 70.95.030.

3 (d)(i) "Machinery and equipment" means fixtures, devices, and
4 support facilities that are integral and necessary to the generation of
5 electricity using fuel cells, wind, sun, biomass energy, tidal or wave
6 energy, geothermal resources, anaerobic digestion, technology that
7 converts otherwise lost energy from exhaust, or landfill gas as the
8 principal source of power.

9 (ii) "Machinery and equipment" does not include: (A) Hand-powered
10 tools; (B) property with a useful life of less than one year; (C)
11 repair parts required to restore machinery and equipment to normal
12 working order; (D) replacement parts that do not increase productivity,
13 improve efficiency, or extend the useful life of machinery and
14 equipment; (E) buildings; or (F) building fixtures that are not
15 integral and necessary to the generation of electricity that are
16 permanently affixed to and become a physical part of a building.

17 (e) "Local electric utility" means a company owned by investors
18 that meets the definition of RCW 80.04.010 and is engaged in
19 distributing electricity to more than one retail electric customer in
20 the state; a municipal electric utility formed under Title 35 RCW, a
21 public utility district formed under Title 54 RCW, an irrigation
22 district formed under chapter 87.03 RCW, a cooperative formed under
23 chapter 23.86 RCW, or a mutual corporation or association formed under
24 chapter 24.06 RCW, that is engaged in the business of distributing
25 electricity to more than one retail electric customer in the state; and
26 a joint operating agency formed under chapter 43.52 RCW.

27 (f) "Person" means the same as defined under RCW 82.04.030.

28 (3)(a) Machinery and equipment is "used directly" in generating
29 electricity by wind energy, solar energy, biomass energy, tidal or wave
30 energy, geothermal resources, anaerobic digestion, technology that
31 converts otherwise lost energy from exhaust, or landfill gas power if
32 it provides any part of the process that captures the energy of the
33 wind, sun, biomass energy, tidal or wave energy, geothermal resources,
34 anaerobic digestion, technology that converts otherwise lost energy
35 from exhaust, or landfill gas, converts that energy to electricity, and
36 stores, transforms, or transmits that electricity for entry into or
37 operation in parallel with electric transmission and distribution
38 systems.

1 (b) Machinery and equipment is "used directly" in generating
2 electricity by fuel cells if it provides any part of the process that
3 captures the energy of the fuel, converts that energy to electricity,
4 and stores, transforms, or transmits that electricity for entry into or
5 operation in parallel with electric transmission and distribution
6 systems.

7 (4)(a) A purchaser claiming an exemption in the form of a
8 remittance under subsection (1)((~~e~~)) (d) of this section must pay the
9 tax imposed by RCW 82.08.020 and all applicable local sales taxes
10 imposed under the authority of chapters 82.14 and 81.104 RCW. The
11 purchaser may then apply to the department for remittance in a form and
12 manner prescribed by the department. A purchaser may not apply for a
13 remittance under this section more frequently than once per quarter.
14 The purchaser must specify the amount of exempted tax claimed and the
15 qualifying purchases for which the exemption is claimed. The purchaser
16 must retain, in adequate detail, records to enable the department to
17 determine whether the purchaser is entitled to an exemption under this
18 section, including: Invoices; proof of tax paid; and documents
19 describing the machinery and equipment.

20 (b) The department must determine eligibility under this section
21 based on the information provided by the purchaser, which is subject to
22 audit verification by the department. The department must on a
23 quarterly basis remit exempted amounts to qualifying purchasers who
24 submitted applications during the previous quarter.

25 (5) This section expires July 1, 2013.

26 **Sec. 2.** RCW 82.12.962 and 2009 c 469 s 102 are each amended to
27 read as follows:

28 (1)(a) Except as provided in RCW 82.12.963, consumers who have paid
29 the tax imposed by RCW 82.12.020 on machinery and equipment used
30 directly in generating electricity using fuel cells, wind, sun, biomass
31 energy, tidal or wave energy, geothermal resources, anaerobic
32 digestion, technology that converts otherwise lost energy from exhaust,
33 or landfill gas as the principal source of power, or to sales of or
34 charges made for labor and services rendered in respect to installing
35 such machinery and equipment, are eligible for an exemption as provided
36 in this section, but only if the purchaser develops with such

1 machinery, equipment, and labor a facility capable of generating not
2 less than one thousand watts of electricity.

3 (b) Beginning on July 1, 2009, through June 30, (~~2011~~) 2010, the
4 provisions of this chapter do not apply in respect to the use of
5 machinery and equipment described in (a) of this subsection that are
6 used directly in generating electricity or to sales of or charges made
7 for labor and services rendered in respect to installing such machinery
8 and equipment.

9 (c) Beginning on July 1, 2010, through June 30, 2011, the
10 provisions of this chapter do not apply in respect to the use by a
11 local electric utility, or by a person contracting with a local
12 electric utility for the sale of electric power generated by a facility
13 containing machinery and equipment, of machinery and equipment
14 described in (a) of this subsection that are used directly in
15 generating electricity or to sales of or charges made for labor and
16 services rendered in respect to installing such machinery and
17 equipment.

18 (d) Beginning on July 1, 2011, through June 30, 2013, the amount of
19 the exemption under this subsection (1) is equal to seventy-five
20 percent of the state and local sales tax paid by a local electric
21 utility, or to a person contracting with a local electric utility for
22 the sale of electric power generated by a facility containing machinery
23 and equipment. The consumer is eligible for an exemption under this
24 subsection (1)(~~(e)~~) (d) in the form of a remittance.

25 (2)(a) A person claiming an exemption in the form of a remittance
26 under subsection (1)(~~(e)~~) (d) of this section must pay the tax
27 imposed by RCW 82.12.020 and all applicable local use taxes imposed
28 under the authority of chapters 82.14 and 81.104 RCW. The consumer may
29 then apply to the department for remittance in a form and manner
30 prescribed by the department. A consumer may not apply for a
31 remittance under this section more frequently than once per quarter.
32 The consumer must specify the amount of exempted tax claimed and the
33 qualifying purchases or acquisitions for which the exemption is
34 claimed. The consumer must retain, in adequate detail, records to
35 enable the department to determine whether the consumer is entitled to
36 an exemption under this section, including: Invoices; proof of tax
37 paid; and documents describing the machinery and equipment.

1 (b) The department must determine eligibility under this section
2 based on the information provided by the consumer, which is subject to
3 audit verification by the department. The department must on a
4 quarterly basis remit exempted amounts to qualifying consumers who
5 submitted applications during the previous quarter.

6 (3) Purchases exempt under RCW 82.08.962 are also exempt from the
7 tax imposed under RCW 82.12.020.

8 (4) The definitions in RCW 82.08.962 apply to this section.

9 (5) This section expires June 30, 2013.

10 NEW SECTION. **Sec. 3.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 4.** This act takes effect June 30, 2010.

--- END ---