
SECOND ENGROSSED SENATE BILL 5873

State of Washington

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2012 Regular Session

By Senators Prentice, Parlette, Hewitt, Murray, Harper, Holmquist
Newbry, Chase, Zarelli, Hobbs, King, Fain, Honeyford, Tom, Kilmer, and
McAuliffe

Read first time 03/11/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to amending the sales and use tax exemption for
2 certain equipment used in computer data centers; amending RCW
3 82.08.986, 82.08.986, and 82.12.986; creating a new section; providing
4 an effective date; providing a contingent effective date; providing
5 expiration dates; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) It is the legislature's intent to
8 encourage immediate investments in technology facilities that can
9 provide an economic stimulus, sustain long-term jobs that provide
10 living wages, and help build the digital infrastructure that can enable
11 the state to be competitive for additional technology investment and
12 jobs.

13 (2) There is currently an intense competition for data center
14 construction and operation in many states including: Oregon, Arizona,
15 North and South Carolina, North Dakota, Iowa, Virginia, Texas, and
16 Illinois. Unprecedented incentives are available as a result of the
17 desire of these states to attract investments that will serve as a
18 catalyst for additional clusters of economic activity.

1 (3) Data center technology has advanced rapidly, with marked
2 increases in energy efficiency. Large, commercial-grade data centers
3 leverage the economies of scale to reduce energy consumption.
4 Combining digitized processes with the economies of scale recognized at
5 these data centers, today's enterprises can materially reduce the
6 energy they consume and greatly improve their efficiency.

7 (4) The legislature finds that offering an exemption for server and
8 related electrical equipment and installation will act as a stimulus to
9 incent immediate investment. This investment will bring jobs, tax
10 revenues, and economic growth to some of our state's rural areas.

11 **Sec. 2.** RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each
12 amended to read as follows:

13 (1) An exemption from the tax imposed by RCW 82.08.020 is provided
14 for sales to qualifying businesses and to qualifying tenants of
15 eligible server equipment to be installed, without intervening use, in
16 an eligible computer data center, and to charges made for labor and
17 services rendered in respect to installing eligible server equipment.
18 The exemption also applies to sales to qualifying businesses of
19 eligible power infrastructure, including labor and services rendered in
20 respect to constructing, installing, repairing, altering, or improving
21 eligible power infrastructure.

22 (2)(a) In order to claim the exemption under this section, a
23 qualifying business or a qualifying tenant must submit an application
24 to the department for an exemption certificate. The application must
25 include the information necessary, as required by the department, to
26 determine that a business or tenant qualifies for the exemption under
27 this section. The department must issue exemption certificates to
28 qualifying businesses and qualifying tenants. The department may
29 assign a unique identification number to each exemption certificate
30 issued under this section.

31 (b) A qualifying business or a qualifying tenant claiming the
32 exemption under this section must present the seller with an exemption
33 certificate in a form and manner prescribed by the department. The
34 seller must retain a copy of the certificate for the seller's files.

35 (3)(a) Within six years of the date that the department issued an
36 exemption certificate under this section to a qualifying business or a
37 qualifying tenant with respect to an eligible computer data center, the

1 qualifying business or qualifying tenant must establish that net
2 employment at the eligible computer data center has increased by a
3 minimum of:

4 (i) Thirty-five family wage employment positions; or
5 (ii) Three family wage employment positions for each twenty
6 thousand square feet of space or less that is newly dedicated to
7 housing working servers at the eligible computer data center. For
8 qualifying ~~((businesses that lease space at an eligible computer data
9 center))~~ tenants, the number of family wage employment positions that
10 must be increased under this subsection (3)(a)(ii) is based only on the
11 space occupied by the ~~((lessee))~~ qualifying tenant in the eligible
12 computer data center.

13 (b) In calculating the net increase in family wage employment
14 positions:

15 (i) The owner of an eligible computer data center, in addition to
16 its own net increase in family wage employment positions, may include:

17 (A) The net increase in family wage employment positions employed
18 by qualifying ~~((businesses leasing space within the eligible computer
19 data center from the owner))~~ tenants; and

20 (B) The net increase in family wage employment positions described
21 in (c)(ii)(B) of this subsection (3).

22 (ii)(A) ~~((Lessees of the owner of an eligible computer data
23 center))~~ Qualifying tenants, in addition to their own net increase in
24 family wage employment positions, may include:

25 (I) A portion of the net increase in family wage employment
26 positions employed by the owner; and

27 (II) A portion of the net increase in family wage employment
28 positions described in (c)(ii)(B) of this subsection (3).

29 (B) The portion of the net increase in family wage employment
30 positions to be counted under this subsection (3)(b)(ii) by each
31 ~~((lessee))~~ qualifying tenant must be in proportion to the amount of
32 space in the eligible computer data center occupied by the ~~((lessee))~~
33 qualifying tenant compared to the total amount of space in the eligible
34 computer data center occupied by all ~~((lessees that are qualifying
35 businesses))~~ qualifying tenants.

36 (c)(i) For purposes of this subsection, family wage employment
37 positions are new permanent employment positions requiring forty hours
38 of weekly work, or their equivalent, on a full-time basis at the

1 eligible computer data center and receiving a wage equivalent to or
2 greater than one hundred fifty percent of the per capita personal
3 income of the county in which the qualified project is located. An
4 employment position may not be counted as a family wage employment
5 position unless the employment position is entitled to health insurance
6 coverage provided by the employer of the employment position. For
7 purposes of this subsection (3)(c), "new permanent employment position"
8 means an employment position that did not exist or that had not
9 previously been filled as of the date that the department issued an
10 exemption certificate to the owner or (~~lessee~~) qualifying tenant of
11 an eligible computer data center, as the case may be.

12 (ii)(A) Family wage employment positions include positions filled
13 by employees of the owner of the eligible computer data center and by
14 employees of qualifying (~~businesses leasing space from the owner of~~
15 ~~the eligible computer data center~~) tenants.

16 (B) Family wage employment positions also include individuals
17 performing work at an eligible computer data center as an independent
18 contractor hired by the owner of the eligible computer data center or
19 as an employee of an independent contractor hired by the owner of the
20 eligible computer data center, if the work is necessary for the
21 operation of the computer data center, such as security and building
22 maintenance, and provided that all of the requirements in (c)(i) of
23 this subsection (3) are met.

24 (d) All previously exempted sales and use taxes are immediately due
25 and payable for a qualifying business or qualifying tenant that does
26 not meet the requirements of this subsection.

27 (4) A qualifying business or a qualifying tenant claiming an
28 exemption under this section or RCW 82.12.986 must complete an annual
29 report with the department as required under RCW 82.32.534.

30 (5)(a) The exemption provided in this section does not apply to:

31 (i) Any person who has received the benefit of the deferral program
32 under chapter 82.60 RCW on: (A) The construction, renovation, or
33 expansion of a structure or structures used as a computer data center;
34 or (B) machinery or equipment used in a computer data center; and

35 (ii) Any person affiliated with a person within the scope of (a)(i)
36 of this subsection (5). For purposes of this subsection, "affiliated"
37 means that one person has a direct or indirect ownership interest of at
38 least twenty percent in another person.

1 (b) If a person claims an exemption under this section and
2 subsequently receives the benefit of the deferral program under chapter
3 82.60 RCW on either the construction, renovation, or expansion of a
4 structure or structures used as a computer data center or machinery or
5 equipment used in a computer data center, the person must repay the
6 amount of taxes exempted under this section. Interest as provided in
7 chapter 82.32 RCW applies to amounts due under this section until paid
8 in full.

9 (6) For purposes of this section the following definitions apply
10 unless the context clearly requires otherwise:

11 (a)(i) "Computer data center" means a facility comprised of one or
12 more buildings, which may be comprised of multiple businesses,
13 constructed or refurbished specifically, and used primarily, to house
14 working servers, where the facility has the following characteristics:
15 (A) Uninterruptible power supplies, generator backup power, or both;
16 (B) sophisticated fire suppression and prevention systems; and (C)
17 enhanced physical security, such as: Restricted access to the facility
18 to selected personnel; permanent security guards; video camera
19 surveillance; an electronic system requiring passcodes, keycards, or
20 biometric scans, such as hand scans and retinal or fingerprint
21 recognition; or similar security features.

22 (ii) For a computer data center comprised of multiple buildings,
23 each separate building constructed or refurbished specifically, and
24 used primarily, to house working servers is considered a computer data
25 center if it has all of the characteristics listed in (a)(i)(A) through
26 (C) of this subsection (6).

27 (iii) A facility comprised of one building or more than one
28 building must have a combined square footage of at least one hundred
29 thousand square feet.

30 (b) "Electronic data storage and data management services" include,
31 but are not limited to: Providing data storage and backup services,
32 providing computer processing power, hosting enterprise software
33 applications, and hosting web sites. The term also includes providing
34 services such as e-mail, web browsing and searching, media
35 applications, and other online services, regardless of whether a charge
36 is made for such services.

37 (c)(i) "Eligible computer data center" means a computer data
38 center:

1 (A) Located in a rural county as defined in RCW 82.14.370;

2 (B) Having at least twenty thousand square feet dedicated to
3 housing working servers, where the server space has not previously been
4 dedicated to housing working servers; and

5 (C) For which the commencement of construction occurs:

6 (I) After March 31, 2010, and before July 1, 2011; or

7 (II) After March 31, 2012, and before July 1, 2015.

8 (ii) For purposes of this section, "commencement of construction"
9 means the date that a building permit is issued under the building code
10 adopted under RCW 19.27.031 for construction of the computer data
11 center. The construction of a computer data center includes the
12 expansion, renovation, or other improvements made to existing
13 facilities, including leased or rented space. "Commencement of
14 construction" does not include soil testing, site clearing and grading,
15 site preparation, or any other related activities that are initiated
16 before the issuance of a building permit for the construction of the
17 foundation of a computer data center.

18 ~~((+ii))~~ (iii) With respect to facilities in existence on April 1,
19 2010, that are expanded, renovated, or otherwise improved after March
20 31, 2010, or facilities in existence on April 1, 2012, that are
21 expanded, renovated, or otherwise improved after March 31, 2012, an
22 eligible computer data center includes only the portion of the computer
23 data center meeting the requirements in (c)(i)(B) of this subsection
24 (6).

25 (d) "Eligible power infrastructure" means all fixtures and
26 equipment owned by a qualifying business, or qualifying tenant and
27 necessary for the transformation, distribution, or management of
28 electricity that is required to operate eligible server equipment
29 within an eligible computer data center. The term includes
30 ~~((electrical — substations,))~~ generators((,)); wiring((, — and));
31 cogeneration equipment; and associated fixtures and equipment, such as
32 electrical switches, batteries, and distribution, testing, and
33 monitoring equipment.

34 (e) "Eligible server equipment" means:

35 (i) For a qualifying business whose computer data center qualifies
36 as an eligible computer data center under (c)(i)(C)(I) of this
37 subsection (6), the original server equipment installed in an eligible

1 computer data center on or after April 1, 2010, and replacement server
2 equipment. For purposes of this subsection (6)(e)(i), "replacement
3 server equipment" means server equipment that:

4 ~~((i))~~ (A) Replaces existing server equipment, if the sale or use
5 of the server equipment to be replaced qualified for an exemption under
6 this section or RCW 82.12.986; and

7 ~~((ii))~~ (B) Is installed and put into regular use before April 1,
8 2018.

9 (ii) For a qualifying business whose computer data center qualifies
10 as an eligible computer data center under (c)(i)(C)(II) of this
11 subsection (6), "eligible server equipment" means the original server
12 equipment installed in an eligible computer data center on or after
13 April 1, 2012, and replacement server equipment. For purposes of this
14 subsection (6)(e)(ii), "replacement server equipment" means server
15 equipment that:

16 (A) Replaces existing server equipment, if the sale or use of the
17 server equipment to be replaced qualified for an exemption under this
18 section or RCW 82.12.986; and

19 (B) Is installed and put into regular use before April 1, 2020.

20 (iii) For a qualifying tenant who leases space within an eligible
21 computer data center, "eligible server equipment" means the original
22 server equipment installed within the space it leases from an eligible
23 computer data center on or after April 1, 2010, and replacement server
24 equipment. For purposes of this subsection (6)(e)(iii), "replacement
25 server equipment" means server equipment that:

26 (A) Replaces existing server equipment, if the sale or use of the
27 server equipment to be replaced qualified for an exemption under this
28 section or RCW 82.12.986; and

29 (B) Is installed and put into regular use before April 1, 2020.

30 (f) "Qualifying business" means a business entity that exists for
31 the primary purpose of engaging in commercial activity for profit and
32 that is the owner of an eligible computer data center (~~or the lessee~~
33 ~~of at least twenty thousand square feet within an eligible computer~~
34 ~~data center dedicated to housing working servers, where the server~~
35 ~~space has not previously been dedicated to housing working servers)).~~

36 The term does not include the state or federal government or any of
37 their departments, agencies, and institutions; tribal governments;
38 political subdivisions of this state; or any municipal, quasi-

1 municipal, public, or other corporation created by the state or federal
2 government, tribal government, municipality, or political subdivision
3 of the state.

4 (g) (~~"Server" means blade or rack mount server computers used in
5 a computer data center exclusively to provide electronic data storage
6 and data management services for internal use by the owner or lessee of
7 the computer data center, for clients of the owner or lessee of the
8 computer data center, or both. "Server" does not include personal
9 computers.~~

10 (h) ~~"Server equipment" means the server chassis and all computer
11 hardware contained within the server chassis. "Server equipment" also
12 includes computer software necessary to operate the server. "Server
13 equipment" does not include the racks upon which the server chassis is
14 installed, and computer peripherals such as keyboards, monitors,
15 printers, mice, and other devices that work outside of the computer.)~~

16 "Qualifying tenant" means a business entity that exists for the primary
17 purpose of engaging in commercial activity for profit and that leases
18 space from a qualifying business within an eligible computer data
19 center. The term does not include the state or federal government or
20 any of their departments, agencies, and institutions; tribal
21 governments; political subdivisions of this state; or any municipal,
22 quasi-municipal, public, or other corporation created by the state or
23 federal government, tribal government, municipality, or political
24 subdivision of the state.

25 (h) "Server equipment" means the computer hardware located in an
26 eligible computer data center and used exclusively to provide
27 electronic data storage and data management services for internal use
28 by the owner or lessee of the computer data center, for clients of the
29 owner or lessee of the computer data center, or both. "Server
30 equipment" also includes computer software necessary to operate the
31 computer hardware. "Server equipment" does not include personal
32 computers, the racks upon which the server equipment is installed, and
33 computer peripherals such as keyboards, monitors, printers, and mice.

34 (7) This section expires April 1, ((2018)) 2020.

35 **Sec. 3.** RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each
36 amended to read as follows:

37 (1) An exemption from the tax imposed by RCW 82.08.020 is provided

1 for sales to qualifying businesses and to qualifying tenants of
2 eligible server equipment to be installed, without intervening use, in
3 an eligible computer data center, and to charges made for labor and
4 services rendered in respect to installing eligible server equipment.
5 The exemption also applies to sales to qualifying businesses of
6 eligible power infrastructure, including labor and services rendered in
7 respect to constructing, installing, repairing, altering, or improving
8 eligible power infrastructure.

9 (2)(a) In order to claim the exemption under this section, a
10 qualifying business or a qualifying tenant must submit an application
11 to the department for an exemption certificate. The application must
12 include the information necessary, as required by the department, to
13 determine that a business or tenant qualifies for the exemption under
14 this section. The department must issue exemption certificates to
15 qualifying businesses and qualifying tenants. The department may
16 assign a unique identification number to each exemption certificate
17 issued under this section.

18 (b) A qualifying business or a qualifying tenant claiming the
19 exemption under this section must present the seller with an exemption
20 certificate in a form and manner prescribed by the department. The
21 seller must retain a copy of the certificate for the seller's files.

22 (3)(a) Within six years of the date that the department issued an
23 exemption certificate under this section to a qualifying business or a
24 qualifying tenant with respect to an eligible computer data center, the
25 qualifying business or qualifying tenant must establish that net
26 employment at the eligible computer data center has increased by a
27 minimum of:

28 (i) Thirty-five family wage employment positions; or

29 (ii) Three family wage employment positions for each twenty
30 thousand square feet of space or less that is newly dedicated to
31 housing working servers at the eligible computer data center. For
32 qualifying (~~businesses that lease space at an eligible computer data~~
33 ~~center~~) tenants, the number of family wage employment positions that
34 must be increased under this subsection (3)(a)(ii) is based only on the
35 space occupied by the (~~lessee~~) qualifying tenant in the eligible
36 computer data center.

37 (b) In calculating the net increase in family wage employment
38 positions:

1 (i) The owner of an eligible computer data center, in addition to
2 its own net increase in family wage employment positions, may include:

3 (A) The net increase in family wage employment positions employed
4 by qualifying (~~((businesses leasing space within the eligible computer
5 data center from the owner))~~) tenants; and

6 (B) The net increase in family wage employment positions described
7 in (c)(ii)(B) of this subsection (3).

8 (ii)(A) (~~((Lessees of the owner of an eligible computer data
9 center))~~) Qualifying tenants, in addition to their own net increase in
10 family wage employment positions, may include:

11 (I) A portion of the net increase in family wage employment
12 positions employed by the owner; and

13 (II) A portion of the net increase in family wage employment
14 positions described in (c)(ii)(B) of this subsection (3).

15 (B) The portion of the net increase in family wage employment
16 positions to be counted under this subsection (3)(b)(ii) by each
17 (~~((lessee))~~) qualifying tenant must be in proportion to the amount of
18 space in the eligible computer data center occupied by the (~~((lessee))~~)
19 qualifying tenant compared to the total amount of space in the eligible
20 computer data center occupied by all (~~((lessees that are qualifying
21 businesses))~~) qualifying tenants.

22 (c)(i) For purposes of this subsection, family wage employment
23 positions are new permanent employment positions requiring forty hours
24 of weekly work, or their equivalent, on a full-time basis at the
25 eligible computer data center and receiving a wage equivalent to or
26 greater than one hundred fifty percent of the per capita personal
27 income of the county in which the qualified project is located. An
28 employment position may not be counted as a family wage employment
29 position unless the employment position is entitled to health insurance
30 coverage provided by the employer of the employment position. For
31 purposes of this subsection (3)(c), "new permanent employment position"
32 means an employment position that did not exist or that had not
33 previously been filled as of the date that the department issued an
34 exemption certificate to the owner or (~~((lessee))~~) qualifying tenant of
35 an eligible computer data center, as the case may be.

36 (ii)(A) Family wage employment positions include positions filled
37 by employees of the owner of the eligible computer data center and by

1 employees of qualifying (~~(businesses leasing space from the owner of~~
2 ~~the eligible computer data center)) tenants.~~

3 (B) Family wage employment positions also include individuals
4 performing work at an eligible computer data center as an independent
5 contractor hired by the owner of the eligible computer data center or
6 as an employee of an independent contractor hired by the owner of the
7 eligible computer data center, if the work is necessary for the
8 operation of the computer data center, such as security and building
9 maintenance, and provided that all of the requirements in (c)(i) of
10 this subsection (3) are met.

11 (d) All previously exempted sales and use taxes are immediately due
12 and payable for a qualifying business or qualifying tenant that does
13 not meet the requirements of this subsection.

14 (4) A qualifying business or a qualifying tenant claiming an
15 exemption under this section or RCW 82.12.986 must complete an annual
16 (~~report~~) survey with the department as required under RCW
17 (~~82.32.534~~) 82.32.585.

18 (5)(a) The exemption provided in this section does not apply to:

19 (i) Any person who has received the benefit of the deferral program
20 under chapter 82.60 RCW on: (A) The construction, renovation, or
21 expansion of a structure or structures used as a computer data center;
22 or (B) machinery or equipment used in a computer data center; and

23 (ii) Any person affiliated with a person within the scope of (a)(i)
24 of this subsection (5). For purposes of this subsection, "affiliated"
25 means that one person has a direct or indirect ownership interest of at
26 least twenty percent in another person.

27 (b) If a person claims an exemption under this section and
28 subsequently receives the benefit of the deferral program under chapter
29 82.60 RCW on either the construction, renovation, or expansion of a
30 structure or structures used as a computer data center or machinery or
31 equipment used in a computer data center, the person must repay the
32 amount of taxes exempted under this section. Interest as provided in
33 chapter 82.32 RCW applies to amounts due under this section until paid
34 in full.

35 (6) For purposes of this section the following definitions apply
36 unless the context clearly requires otherwise:

37 (a)(i) "Computer data center" means a facility comprised of one or
38 more buildings, which may be comprised of multiple businesses,

1 constructed or refurbished specifically, and used primarily, to house
2 working servers, where the facility has the following characteristics:
3 (A) Uninterruptible power supplies, generator backup power, or both;
4 (B) sophisticated fire suppression and prevention systems; and (C)
5 enhanced physical security, such as: Restricted access to the facility
6 to selected personnel; permanent security guards; video camera
7 surveillance; an electronic system requiring passcodes, keycards, or
8 biometric scans, such as hand scans and retinal or fingerprint
9 recognition; or similar security features.

10 (ii) For a computer data center comprised of multiple buildings,
11 each separate building constructed or refurbished specifically, and
12 used primarily, to house working servers is considered a computer data
13 center if it has all of the characteristics listed in (a)(i)(A) through
14 (C) of this subsection (6).

15 (iii) A facility comprised of one building or more than one
16 building must have a combined square footage of at least one hundred
17 thousand square feet.

18 (b) "Electronic data storage and data management services" include,
19 but are not limited to: Providing data storage and backup services,
20 providing computer processing power, hosting enterprise software
21 applications, and hosting web sites. The term also includes providing
22 services such as e-mail, web browsing and searching, media
23 applications, and other online services, regardless of whether a charge
24 is made for such services.

25 (c)(i) "Eligible computer data center" means a computer data
26 center:

27 (A) Located in a rural county as defined in RCW 82.14.370;

28 (B) Having at least twenty thousand square feet dedicated to
29 housing working servers, where the server space has not previously been
30 dedicated to housing working servers; and

31 (C) For which the commencement of construction occurs:

32 (I) After March 31, 2010, and before July 1, 2011; or

33 (II) After March 31, 2012, and before July 1, 2015.

34 (ii) For purposes of this section, "commencement of construction"
35 means the date that a building permit is issued under the building code
36 adopted under RCW 19.27.031 for construction of the computer data
37 center. The construction of a computer data center includes the
38 expansion, renovation, or other improvements made to existing

1 facilities, including leased or rented space. "Commencement of
2 construction" does not include soil testing, site clearing and grading,
3 site preparation, or any other related activities that are initiated
4 before the issuance of a building permit for the construction of the
5 foundation of a computer data center.

6 ~~((+i+))~~ (iii) With respect to facilities in existence on April 1,
7 2010, that are expanded, renovated, or otherwise improved after March
8 31, 2010, or facilities in existence on April 1, 2012, that are
9 expanded, renovated, or otherwise improved after March 31, 2012, an
10 eligible computer data center includes only the portion of the computer
11 data center meeting the requirements in (c)(i)(B) of this subsection
12 (6).

13 (d) "Eligible power infrastructure" means all fixtures and
14 equipment owned by a qualifying business, or qualifying tenant and
15 necessary for the transformation, distribution, or management of
16 electricity that is required to operate eligible server equipment
17 within an eligible computer data center. The term includes
18 ~~((electrical — substations,))~~ generators((,)); wiring((, — and));
19 cogeneration equipment; and associated fixtures and equipment, such as
20 electrical switches, batteries, and distribution, testing, and
21 monitoring equipment.

22 (e) "Eligible server equipment" means:

23 (i) For a qualifying business whose computer data center qualifies
24 as an eligible computer data center under (c)(i)(C)(I) of this
25 subsection (6), the original server equipment installed in an eligible
26 computer data center on or after April 1, 2010, and replacement server
27 equipment. For purposes of this subsection (6)(e)(i), "replacement
28 server equipment" means server equipment that:

29 ~~((+i+))~~ (A) Replaces existing server equipment, if the sale or use
30 of the server equipment to be replaced qualified for an exemption under
31 this section or RCW 82.12.986; and

32 ~~((+i+))~~ (B) Is installed and put into regular use before April 1,
33 2018.

34 (ii) For a qualifying business whose computer data center qualifies
35 as an eligible computer data center under (c)(i)(C)(II) of this
36 subsection (6), "eligible server equipment" means the original server
37 equipment installed in an eligible computer data center on or after

1 April 1, 2012, and replacement server equipment. For purposes of this
2 subsection (6)(e)(ii), "replacement server equipment" means server
3 equipment that:

4 (A) Replaces existing server equipment, if the sale or use of the
5 server equipment to be replaced qualified for an exemption under this
6 section or RCW 82.12.986; and

7 (B) Is installed and put into regular use before April 1, 2020.

8 (iii) For a qualifying tenant who leases space within an eligible
9 computer data center, "eligible server equipment" means the original
10 server equipment installed within the space it leases from an eligible
11 computer data center on or after April 1, 2010, and replacement server
12 equipment. For purposes of this subsection (6)(e)(iii), "replacement
13 server equipment" means server equipment that:

14 (A) Replaces existing server equipment, if the sale or use of the
15 server equipment to be replaced qualified for an exemption under this
16 section or RCW 82.12.986; and

17 (B) Is installed and put into regular use before April 1, 2020.

18 (f) "Qualifying business" means a business entity that exists for
19 the primary purpose of engaging in commercial activity for profit and
20 that is the owner of an eligible computer data center (~~(or the lessee~~
21 ~~of at least twenty thousand square feet within an eligible computer~~
22 ~~data center dedicated to housing working servers, where the server~~
23 ~~space has not previously been dedicated to housing working servers)).~~
24 The term does not include the state or federal government or any of
25 their departments, agencies, and institutions; tribal governments;
26 political subdivisions of this state; or any municipal, quasi-
27 municipal, public, or other corporation created by the state or federal
28 government, tribal government, municipality, or political subdivision
29 of the state.

30 ~~(g) ("Server" means blade or rack mount server computers used in~~
31 ~~a computer data center exclusively to provide electronic data storage~~
32 ~~and data management services for internal use by the owner or lessee of~~
33 ~~the computer data center, for clients of the owner or lessee of the~~
34 ~~computer data center, or both. "Server" does not include personal~~
35 ~~computers.~~

36 ~~(h) "Server equipment" means the server chassis and all computer~~
37 ~~hardware contained within the server chassis. "Server equipment" also~~
38 ~~includes computer software necessary to operate the server. "Server~~

1 equipment" does not include the racks upon which the server chassis is
2 installed, and computer peripherals such as keyboards, monitors,
3 printers, mice, and other devices that work outside of the computer.)

4 "Qualifying tenant" means a business entity that exists for the primary
5 purpose of engaging in commercial activity for profit and that leases
6 space from a qualifying business within an eligible computer data
7 center. The term does not include the state or federal government or
8 any of their departments, agencies, and institutions; tribal
9 governments; political subdivisions of this state; or any municipal,
10 quasi-municipal, public, or other corporation created by the state or
11 federal government, tribal government, municipality, or political
12 subdivision of the state.

13 (h) "Server equipment" means the computer hardware located in an
14 eligible computer data center and used exclusively to provide
15 electronic data storage and data management services for internal use
16 by the owner or lessee of the computer data center, for clients of the
17 owner or lessee of the computer data center, or both. "Server
18 equipment" also includes computer software necessary to operate the
19 computer hardware. "Server equipment" does not include personal
20 computers, the racks upon which the server equipment is installed, and
21 computer peripherals such as keyboards, monitors, printers, and mice.

22 (7) This section expires April 1, ((2018)) 2020.

23 **Sec. 4.** RCW 82.12.986 and 2010 1st sp.s. c 23 s 1602 are each
24 amended to read as follows:

25 (1) An exemption from the tax imposed by RCW 82.12.020 is provided
26 for the use by qualifying businesses or qualifying tenants of eligible
27 server equipment to be installed, without intervening use, in an
28 eligible computer data center, and to the use of labor and services
29 rendered in respect to installing such server equipment. The exemption
30 also applies to the use ((of)) by a qualifying business of eligible
31 power infrastructure, including labor and services rendered in respect
32 to installing, repairing, altering, or improving such infrastructure.

33 (2) A qualifying business or a qualifying tenant is not eligible
34 for the exemption under this section unless the department issued an
35 exemption certificate to the qualifying business or a qualifying tenant
36 for the exemption provided in RCW 82.08.986.

37 (3)(a) The exemption provided in this section does not apply to:

1 (i) Any person who has received the benefit of the deferral program
2 under chapter 82.60 RCW on: (A) The construction, renovation, or
3 expansion of a structure or structures used as a computer data center;
4 or (B) machinery or equipment used in a computer data center; and

5 (ii) Any person affiliated with a person within the scope of (a)(i)
6 of this subsection (3). For purposes of this subsection, "affiliated"
7 means that one person has a direct or indirect ownership interest of at
8 least twenty percent in another person.

9 (b) If a person has received the benefit of the exemption under
10 this section and subsequently receives the benefit of the deferral
11 program under chapter 82.60 RCW on either the construction, renovation,
12 or expansion of a structure or structures used as a computer data
13 center or machinery or equipment used in a computer data center, the
14 person must repay the amount of taxes exempted under this section.
15 Interest as provided in chapter 82.32 RCW applies to amounts due under
16 this subsection (3)(b) until paid in full. A person is not required to
17 repay taxes under this subsection with respect to property and services
18 for which the person is required to repay taxes under RCW 82.08.986(5).

19 (4) The definitions and requirements in RCW 82.08.986 apply to this
20 section.

21 (5) This section expires April 1, (~~(2018)~~) 2020.

22 NEW SECTION. **Sec. 5.** (1) Except as provided in subsection (3) of
23 this section, this act is necessary for the immediate preservation of
24 the public peace, health, or safety, or support of the state government
25 and its existing public institutions, and takes effect April 1, 2012.

26 (2) Section 2 of this act does not take effect if the contingency
27 in subsection (3) of this section occurs.

28 (3) Section 3 of this act takes effect if Substitute House Bill No.
29 2530 or any other legislation repealing RCW 82.32.534 is enacted during
30 the 2012 legislative session and signed into law.

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