
SENATE BILL 6411

State of Washington 65th Legislature 2018 Regular Session

By Senators Keiser, Fain, Brown, Fortunato, and Palumbo

Read first time 01/16/18. Referred to Committee on Economic Development & International Trade.

1 AN ACT Relating to providing tax preferences for advanced
2 spacecraft manufacturing; amending RCW 82.63.010, 82.63.020, and
3 82.63.045; adding a new section to chapter 82.04 RCW; adding a new
4 section to chapter 82.63 RCW; creating a new section; and providing
5 expiration dates.

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

7 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
8 performance statement for the tax preferences in sections 2 through
9 6, chapter . . ., Laws of 2018 (sections 2 through 6 of this act).
10 This performance statement is only intended to be used for subsequent
11 evaluation of the tax preferences. It is not intended to create a
12 private right of action by any party or be used to determine
13 eligibility for preferential tax treatment.

14 (2) The legislature categorizes these tax preferences as intended
15 to improve industry competitiveness and create or retain jobs, as
16 indicated in RCW 82.32.808(2) (b) and (c).

17 (3) It is the legislature's specific public policy objective to
18 improve industry competitiveness and create or retain more jobs. It
19 is the legislature's intent to provide a business and occupation tax
20 credit for advanced spacecraft manufacturing performing research and
21 development, and a sales and use tax deferral for certain

1 construction for new and expanding companies conducting research and
2 development in the fields of advanced spacecraft manufacturing in
3 order to reduce the business costs of performing research and
4 development and to reduce the cost of certain construction and
5 equipment purchases used for research and development in advanced
6 spacecraft manufacturing, thereby encouraging investments in research
7 and development, thereby increasing the number of firms in the
8 industry performing research and development activities, thereby
9 increasing the number of jobs performing research and development in
10 advanced spacecraft manufacturing.

11 (4) If a review finds that the number of businesses participating
12 in the credit and deferral programs has increased after the first
13 year this act is in effect and the overall number of jobs for
14 businesses participating in the credit and deferral programs
15 performing research and development has increased from the effective
16 date of this section, then the legislature intends to extend the
17 expiration date of the tax preferences.

18 (5) To further assist the legislature in its review of the tax
19 preferences in sections 2 through 6, chapter . . ., Laws of 2018
20 (sections 2 through 6 of this act), the joint legislative audit and
21 review committee must include an analysis on the effect of the tax
22 credit and deferral programs on job and industry growth in Washington
23 when receiving the tax preferences compared to when the preferences
24 have not been available; the types of jobs created; growth in
25 nonprofit and private sector research and development investment; the
26 growth and retention of advanced spacecraft manufacturing businesses
27 in the state; the movement of advanced spacecraft manufacturing
28 around or into the state; the mergers and acquisitions of advanced
29 spacecraft manufacturing businesses in the state; and other factors
30 that the joint legislative audit and review committee selects.

31 (6) The joint legislative audit and review committee must
32 complete an interim report by December 1, 2023. The interim report
33 must provide an update on descriptive statistics collected, including
34 the size of the companies claiming tax preferences under the credit
35 and deferral programs.

36 (7) In order to obtain the data necessary to perform the review
37 and analysis in subsections (4) and (5) of this section and to
38 complete the report in subsection (6) of this section, the joint
39 legislative audit and review committee may refer to: (a) Employment
40 data available from the employment security department; (b) return

1 and tax information maintained by the department of revenue; and (c)
2 any other data as the joint legislative audit and review committee
3 deems useful.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
5 RCW to read as follows:

6 (1) Beginning July 1, 2018, a credit against the tax imposed
7 under this chapter is allowed for each person whose research and
8 development spending during the year in which the credit is claimed
9 exceeds 0.92 percent of the person's taxable amount during the same
10 calendar year.

11 (2) To be eligible for the credit under this section for research
12 and development conducted in advanced spacecraft manufacturing, a
13 person must, as of July 1, 2018:

- 14 (a) Have an active tax registration with the department; and
- 15 (b) Be actively engaged in advanced spacecraft manufacturing.

16 (3) A person is not eligible for the tax credit under this
17 section for research and development conducted in advanced spacecraft
18 manufacturing if the person claims an aerospace tax credit under RCW
19 82.04.4461 or a preferential tax rate under RCW 82.04.250(3),
20 82.04.260(11), or 82.04.290(3), for a tax reporting period beginning
21 on or after July 1, 2018.

22 (4) Any person claiming the tax credit in this section must be in
23 compliance with all applicable federal statutes and regulations
24 governing payloads.

25 (5) A person's credit is calculated as follows:

26 (a) Determine the greater of the amount of (i) the person's
27 qualified research and development expenditures or (ii) eighty
28 percent of amounts received by the person, other than a public
29 educational or research institution, in compensation for the conduct
30 of qualified research and development actually performed directly by
31 the person;

32 (b) Subtract 0.92 percent of the person's taxable amount from the
33 amount determined under (a) of this subsection;

34 (c) Multiply the amount determined under (b) of this subsection
35 by 1.50 percent.

36 (6) Any person entitled to the credit provided in this section as
37 a result of qualified research and development conducted under
38 contract may assign all or any portion of the credit to the person

1 contracting for the performance of the qualified research and
2 development.

3 (7) The credit, including any credit assigned to a person under
4 subsection (6) of this section, must be claimed against taxes due for
5 the same calendar year in which the qualified research and
6 development expenditures are incurred. The credit, including any
7 credit assigned to a person under subsection (6) of this section, for
8 each calendar year may not exceed the lesser of seven hundred fifty
9 thousand dollars or the amount of tax otherwise due under this
10 chapter for the calendar year.

11 (8)(a) Any person entitled to a credit provided in this section
12 may not claim the credit against taxes due until the following
13 information is provided to the department:

14 (i) The number of jobs the person intends to create as a result
15 of receiving the credit; and

16 (ii) The type of research and development jobs the person intends
17 to create.

18 (b) Information provided to the department under this subsection
19 (8) does not need to be provided each time a credit is claimed under
20 this section, but must be updated if there are any changes to the
21 information provided.

22 (c) Any person issued an assessment or other notice of taxes due
23 for failure to provide the information required under (a) of this
24 subsection, will have that assessment or notice canceled, if the
25 information required under (a) of this subsection is provided. Once
26 this information is provided to the department, the person may claim
27 the credit against taxes due under this section for the initial tax
28 reporting period and subsequent tax reporting periods, if the
29 information is updated pursuant to (b) of this subsection and the
30 person is entitled to the credit.

31 (9) For any person claiming the credit, including any credit
32 assigned to a person under subsection (6) of this section, whose
33 research and development spending during the calendar year in which
34 the credit is claimed fails to exceed 0.92 percent of the person's
35 taxable amount during the same calendar year or who is otherwise
36 ineligible, the department must declare the taxes against which the
37 credit was claimed to be immediately due and payable. The department
38 must assess interest on the taxes against which the credit was
39 claimed. However, the department may not assess penalties on taxes
40 due under this subsection, unless the person who claimed the credit

1 did not engage in any qualified research and development during the
2 calendar year for which the tax credit was claimed. Interest must be
3 assessed retroactively in accordance with chapter 82.32 RCW. Any
4 credit assigned to a person under subsection (6) of this section that
5 is disallowed as a result of this subsection may be claimed by the
6 person who performed the qualified research and development, subject
7 to the limitations set forth in subsection (7) of this section.

8 (10) A person claiming the credit provided in this section must
9 file a complete annual tax performance report with the department
10 under RCW 82.32.534.

11 (11) The definitions in this subsection apply throughout this
12 section unless the context clearly requires otherwise.

13 (a) "Advanced spacecraft manufacturing" has the same meaning as
14 in RCW 82.63.010.

15 (b) "Qualified research and development" has the same meaning as
16 in RCW 82.63.010.

17 (c) "Qualified research and development expenditures" means
18 operating expenses, including wages, compensation of a proprietor or
19 a partner in a partnership as determined under rules adopted by the
20 department, benefits, supplies, and computer expenses, directly
21 incurred in qualified research and development by a person claiming
22 the credit provided in this section. The term does not include
23 amounts paid to a person, other than a public educational or research
24 institution, to conduct qualified research and development. Nor does
25 the term include capital costs and overhead, such as expenses for
26 land, structures, or depreciable property.

27 (d) "Research and development spending" means qualified research
28 and development expenditures plus eighty percent of amounts paid to a
29 person, other than a public educational or research institution, to
30 conduct qualified research and development.

31 (e) "Spacecraft" has the same meaning as provided in RCW
32 82.63.010.

33 (f) "Taxable amount" means the taxable amount subject to the tax
34 imposed in this chapter required to be reported on the person's
35 combined excise tax returns for the calendar year for which the
36 credit is claimed, less any taxable amount for which a credit is
37 allowed under RCW 82.04.440.

38 (12) This section expires July 1, 2028.

1 **Sec. 3.** RCW 82.63.010 and 2015 3rd sp.s. c 5 s 303 are each
2 amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) (~~"Advanced computing" means technologies used in the~~
6 ~~designing and developing of computing hardware and software,~~
7 ~~including innovations in designing the full spectrum of hardware from~~
8 ~~handheld calculators to super computers, and peripheral equipment.~~

9 (2) ~~"Advanced materials" means materials with engineered~~
10 ~~properties created through the development of specialized processing~~
11 ~~and synthesis technology, including ceramics, high value-added~~
12 ~~metals, electronic materials, composites, polymers, and biomaterials.~~

13 (3)) (a) "Advanced spacecraft manufacturing" means the
14 application of technologies, in the design and development of
15 spacecraft, by a manufacturer of spacecraft.

16 (b) For purposes of this subsection (1), the following
17 definitions apply:

18 (i) "Commercial or industrial use" and "manufacturer" have the
19 same meaning as in chapter 82.04 RCW.

20 (ii) "Spacecraft" means a device, and its components, designed
21 for suborbital space flight or to operate in, or place a payload in,
22 outer space, including satellites, but only when such device is
23 intended for sale or commercial or industrial use.

24 (2) "Applicant" means a person applying for a tax deferral under
25 this chapter.

26 (~~(4) "Biotechnology" means the application of technologies, such~~
27 ~~as recombinant DNA techniques, biochemistry, molecular and cellular~~
28 ~~biology, genetics and genetic engineering, cell fusion techniques,~~
29 ~~and new bioprocesses, using living organisms, or parts of organisms,~~
30 ~~to produce or modify products, to improve plants or animals, to~~
31 ~~develop microorganisms for specific uses, to identify targets for~~
32 ~~small molecule pharmaceutical development, or to transform biological~~
33 ~~systems into useful processes and products or to develop~~
34 ~~microorganisms for specific uses.~~

35 (5) "Department" means the department of revenue.

36 (6) ~~"Electronic device technology" means technologies involving~~
37 ~~microelectronics; semiconductors; electronic equipment and~~
38 ~~instrumentation; radio frequency, microwave, and millimeter~~
39 ~~electronics; optical and optic-electrical devices; and data and~~
40 ~~digital communications and imaging devices.~~

1 ~~(7))~~ (3) "Eligible investment project" means an investment
2 project which either initiates a new operation, or expands or
3 diversifies a current operation by expanding, renovating, or
4 equipping an existing facility. The lessor or owner of the qualified
5 building is not eligible for a deferral unless:

6 (a) The underlying ownership of the buildings, machinery, and
7 equipment vests exclusively in the same person; or

8 (b)(i) The lessor by written contract agrees to pass the economic
9 benefit of the deferral to the lessee;

10 (ii) The lessee that receives the economic benefit of the
11 deferral agrees in writing with the department to complete the annual
12 ~~((survey))~~ tax performance report required under RCW 82.63.020~~((+2))~~
13 (6); and

14 (iii) The economic benefit of the deferral passed to the lessee
15 is no less than the amount of tax deferred by the lessor and is
16 evidenced by written documentation of any type of payment, credit, or
17 other financial arrangement between the lessor or owner of the
18 qualified building and the lessee.

19 ~~((8) "Environmental technology" means assessment and prevention
20 of threats or damage to human health or the environment,
21 environmental cleanup, and the development of alternative energy
22 sources.~~

23 ~~(9))~~ (4)(a) "Initiation of construction" means the date that a
24 building permit is issued under the building code adopted under RCW
25 19.27.031 for:

26 (i) Construction of the qualified building, if the underlying
27 ownership of the building vests exclusively with the person receiving
28 the economic benefit of the deferral;

29 (ii) Construction of the qualified building, if the economic
30 benefits of the deferral are passed to a lessee as provided in
31 subsection ~~((7))~~ (3) of this section; or

32 (iii) Tenant improvements for a qualified building, if the
33 economic benefits of the deferral are passed to a lessee as provided
34 in subsection ~~((7))~~ (3) of this section.

35 (b) "Initiation of construction" does not include soil testing,
36 site clearing and grading, site preparation, or any other related
37 activities that are initiated before the issuance of a building
38 permit for the construction of the foundation of the building.

39 (c) If the investment project is a phased project, "initiation of
40 construction" ~~((shall apply))~~ applies separately to each phase.

1 ~~((10))~~ (5) "Investment project" means an investment in
2 qualified buildings or qualified machinery and equipment, including
3 labor and services rendered in the planning, installation, and
4 construction or improvement of the project.

5 ~~((11))~~ (6) "Meaningful construction" means an active
6 construction site, where excavation of a building site, laying of a
7 building foundation, or other tangible signs of construction are
8 taking place and that clearly shows a progression in the construction
9 process, at the location designated by the taxpayer in the
10 application for deferral. Planning, permitting, or land clearing
11 before excavation of the building site, without more, does not
12 constitute meaningful construction.

13 (7) "Multiple qualified buildings" means qualified buildings
14 leased to the same person when:

15 (a) Such structures~~((:—(a)))~~ are located within a five-mile
16 radius; and

17 (b) The initiation of construction of each building begins within
18 a sixty-month period.

19 ~~((12))~~ (8)(a) "Person" has the meaning given in RCW 82.04.030
20 and includes state universities as defined in RCW 28B.10.016. Person
21 also includes any affiliate of a person.

22 (b) For purposes of this subsection (8):

23 (i) "Affiliate" means a person who controls, is controlled by, or
24 is under common control with another person; and

25 (ii) "Control" means the possession, directly or indirectly, of
26 more than twenty percent of the power to direct or cause the
27 direction of the management and policies of a person, whether through
28 the ownership of voting shares, by contract, or otherwise.

29 ~~((13))~~ (9) "Pilot scale manufacturing" means design,
30 construction, and testing of preproduction prototypes and models in
31 the fields of ~~((biotechnology, advanced computing, electronic device~~
32 ~~technology, advanced materials, and environmental technology))~~
33 advanced spacecraft manufacturing other than for commercial sale. As
34 used in this subsection, "commercial sale" excludes sales of
35 prototypes or sales for market testing if the total gross receipts
36 from such sales of the product, service, or process do not exceed one
37 million dollars.

38 ~~((14))~~ (10) "Qualified buildings" means construction of new
39 structures, and expansion or renovation of existing structures for
40 the purpose of increasing floor space or production capacity used for

1 pilot scale manufacturing or qualified research and development,
2 including plant offices and other facilities that are an essential or
3 an integral part of a structure used for pilot scale manufacturing or
4 qualified research and development. Areas used for amusement and
5 recreational activities, physical fitness activities, parking, the
6 selling or furnishing of meals or other food and beverages, or
7 similar commercial and noncommercial activities are not essential or
8 integral to pilot scale manufacturing or qualified research and
9 development. If a building or buildings are used partly for pilot
10 scale manufacturing or qualified research and development, and partly
11 for other purposes, the applicable tax deferral (~~shall~~) must be
12 determined by apportionment of the costs of construction under rules
13 adopted by the department. Such rules may include provisions for
14 determining the amount of the deferral based on apportionment of
15 costs of construction of an investment project consisting of a
16 building or multiple buildings, where qualified research and
17 development or pilot scale manufacturing activities are shifted
18 within a building or from one building to another building.

19 ~~((15))~~ (11)(a) "Qualified machinery and equipment" means
20 fixtures, equipment, and support facilities that are an integral and
21 necessary part of a pilot scale manufacturing or qualified research
22 and development operation. "Qualified machinery and equipment"
23 includes: Computers; software; data processing equipment; laboratory
24 equipment, instrumentation, and other devices used in a process of
25 experimentation to develop a new or improved pilot model, plant
26 process, product, formula, invention, or similar property;
27 manufacturing components such as belts, pulleys, shafts, and moving
28 parts; molds, tools, and dies; vats, tanks, and fermenters; operating
29 structures; and all other equipment used to control, monitor, or
30 operate the machinery. For purposes of this chapter, qualified
31 machinery and equipment must be either new to the taxing jurisdiction
32 of the state or new to the certificate holder, except that used
33 machinery and equipment may be treated as qualified machinery and
34 equipment if the certificate holder either brings the machinery and
35 equipment into Washington or makes a retail purchase of the machinery
36 and equipment in Washington or elsewhere.

37 (b) "Qualified machinery and equipment" does not include any
38 fixtures, equipment, or support facilities, if the sale to or use by
39 the recipient is not eligible for an exemption under RCW 82.08.02565

1 or 82.12.02565 solely because the recipient is an ineligible person
2 as defined in RCW 82.08.02565.

3 ~~((16))~~ (12) "Qualified research and development" means research
4 and development performed within this state in the field~~((s))~~ of
5 ~~((advanced computing, advanced materials, biotechnology, electronic
6 device technology, and environmental technology))~~ advanced spacecraft
7 manufacturing.

8 ~~((17))~~ (13) "Recipient" means a person receiving a tax deferral
9 under this chapter.

10 ~~((18))~~ (14) "Research and development" means activities
11 performed to discover technological information, and technical and
12 nonroutine activities concerned with translating technological
13 information into new or improved products, processes, techniques,
14 formulas, inventions, or software. The term includes exploration of a
15 new use for an existing drug, device, or biological product if the
16 new use requires separate licensing by the federal food and drug
17 administration under chapter 21, C.F.R., as amended. The term does
18 not include adaptation or duplication of existing products where the
19 products are not substantially improved by application of the
20 technology, nor does the term include surveys and studies, social
21 science and humanities research, market research or testing, quality
22 control, sale promotion and service, computer software developed for
23 internal use, and research in areas such as improved style, taste,
24 and seasonal design.

25 **Sec. 4.** RCW 82.63.020 and 2017 c 135 s 37 are each amended to
26 read as follows:

27 (1) A person is not eligible for a tax deferral under this
28 chapter for an investment project to be used for research and
29 development performed within this state in advanced spacecraft
30 manufacturing unless, as of July 1, 2018, the person:

- 31 (a) Has an active tax registration with the department; and
32 (b) Is actively engaged in advanced spacecraft manufacturing.

33 (2) A person is not eligible for a tax deferral under this
34 chapter for an investment project to be used for research and
35 development or pilot scale manufacturing conducted in advanced
36 spacecraft manufacturing if the person claims an aerospace tax credit
37 under RCW 82.04.4461 or preferential tax rate under RCW 82.04.250(3),
38 82.04.260(11), or 82.04.290(3), for a tax reporting period beginning
39 on or after July 1, 2018.

1 (3) Application for deferral of taxes under this chapter must be
2 made to the department before initiation of construction of, or
3 acquisition of equipment or machinery for the investment project. In
4 the case of an investment project involving multiple qualified
5 buildings, applications must be made for, and before the initiation
6 of construction of, each qualified building. The application must be
7 made to the department in a form and manner prescribed by the
8 department. The application must contain information regarding the
9 location of the investment project, the applicant's average
10 employment in the state for the prior year, estimated or actual new
11 employment related to the project, estimated or actual wages of
12 employees related to the project, estimated or actual costs, time
13 schedules for completion and operation, and other information
14 required by the department. The department must rule on the
15 application within sixty days. The department must deny any
16 applications received after October 31, 2027.

17 (4) The department will approve applications that indicate
18 meaningful construction of an eligible investment project will occur
19 within five years of the date of application. Applications indicating
20 that meaningful construction of an eligible investment project will
21 not occur within two years of the date of the application may be
22 required to include additional documentation about the investment
23 project, such as project milestones and other information the
24 department may require. Applications that do not indicate meaningful
25 construction will occur within five years of the date of application
26 must be denied.

27 (5)(a) Recipients may amend an approved deferral application to
28 update the completion date, estimated expenses, the square footage of
29 the investment project, or other information about the investment
30 project. Amendments must be made in a form and manner prescribed by
31 the department.

32 (b) Requests to amend a previously approved application for an
33 investment project for which meaningful construction has not
34 commenced within five years of the date of the initial application
35 must be denied.

36 ~~((+2))~~ (6) Each recipient of a deferral of taxes under this
37 chapter must file a complete annual tax performance report with the
38 department under RCW 82.32.534. If the economic benefits of the
39 deferral are passed to a lessee as provided in RCW 82.63.010~~((+7))~~
40 (3), the lessee must file a complete annual tax performance report,

1 and the applicant is not required to file the annual tax performance
2 report.

3 ~~((3))~~ (7) A recipient who must repay deferred taxes under RCW
4 82.63.045 ~~((because the department has found that an investment
5 project is used for purposes other than research and development
6 performed within this state in the fields of advanced computing,
7 advanced materials, biotechnology, electronic device technology, and
8 environmental technology))~~ is no longer required to file annual tax
9 performance reports under RCW 82.32.534 beginning on the date an
10 investment project is used for nonqualifying purposes.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.63
12 RCW to read as follows:

13 (1)(a) Except as otherwise provided in this section, the
14 department must issue a sales and use tax deferral certificate for
15 state and local sales and use taxes due under chapters 82.08, 82.12,
16 82.14, and 81.104 RCW on each eligible investment project.

17 (b) The amount of tax imposed under chapters 82.08 and 82.12 RCW
18 eligible for deferral under a certificate issued pursuant to this
19 section is limited to seven hundred fifty thousand dollars per
20 eligible investment project per person, except as further limited
21 under subsection (3) of this section. Once a person reaches the seven
22 hundred fifty thousand dollar limit in this subsection (1)(b), the
23 person may no longer defer under this chapter any state or local
24 sales or use taxes due on the eligible investment project.

25 (2) The department may not issue deferral certificates under this
26 section before July 1, 2018.

27 (3)(a) The department may issue a person a deferral certificate
28 under this section on more than one eligible investment project
29 during a calendar year.

30 (b) A person who has been issued more than one deferral
31 certificate may not defer more than seven hundred fifty thousand
32 dollars in tax imposed under chapters 82.08 and 82.12 RCW during a
33 calendar year. Once a person reaches the seven hundred fifty thousand
34 dollar limit in this subsection (3)(b), the person may no longer
35 defer under this chapter any state or local sales or use taxes due on
36 the eligible investment projects during the calendar year.

37 (4) No certificate may be issued for an investment project that
38 has already received a deferral under chapter 82.60 RCW, or this
39 chapter, except that an investment project for qualified research and

1 development that has already received a deferral may also receive an
2 additional deferral certificate for adapting the investment project
3 for use in pilot scale manufacturing.

4 (5) This section expires July 1, 2028.

5 **Sec. 6.** RCW 82.63.045 and 2017 c 135 s 38 are each amended to
6 read as follows:

7 (1) Except as provided in subsection (2) of this section and RCW
8 82.32.534, taxes deferred under this chapter need not be repaid.

9 (2)(a) If, on the basis of the survey under RCW 82.32.585 before
10 January 1, 2018, or the annual tax performance report under RCW
11 82.32.534 beginning January 1, 2018, or other information, the
12 department finds that an investment project is used for purposes
13 other than qualified research and development or pilot scale
14 manufacturing at any time during the calendar year in which the
15 investment project is certified by the department as having been
16 operationally completed, or at any time during any of the seven
17 succeeding calendar years, a portion of deferred taxes is immediately
18 due according to the following schedule:

Year in which use occurs	% of deferred taxes due
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

28 (b) If the department finds that meaningful construction of an
29 investment project did not begin within five years of the date of the
30 application or that an investment project is not operationally
31 complete within ten years of the date of the initial application for
32 deferral, the full amount of deferred taxes is immediately due.

33 (c) If the economic benefits of the deferral are passed to a
34 lessee as provided in RCW 82.63.010(~~(+7)~~) (3), the lessee is

1 responsible for payment to the extent the lessee has received the
2 economic benefit.

3 (3)(a) Notwithstanding subsection (2) of this section, in the
4 case of an investment project consisting of multiple qualified
5 buildings, the lessee is solely liable for payment of any deferred
6 tax determined by the department to be due and payable under this
7 section beginning on the date (~~the department certifies~~) that the
8 project is operationally complete as certified by the department.

9 (b) This subsection does not relieve the lessors of its
10 obligation to the lessee under RCW 82.63.010(~~(+7)~~) (3) to pass the
11 economic benefit of the deferral to the lessee.

12 (4) The department must assess interest at the rate provided for
13 delinquent taxes, but not penalties, retroactively to the date of
14 deferral. The debt for deferred taxes will not be extinguished by
15 insolvency or other failure of the recipient. Transfer of ownership
16 does not terminate the deferral, unless the successor does not agree
17 in writing with the department to be bound by the eligibility
18 requirements of this chapter. The deferral is transferred, subject to
19 the successor meeting the eligibility requirements of this chapter,
20 for the remaining periods of the deferral.

21 (5) Notwithstanding subsection (2) of this section or RCW
22 82.32.534, deferred taxes on the following need not be repaid:

23 (a) Machinery and equipment, and sales of or charges made for
24 labor and services, which at the time of purchase would have
25 qualified for exemption under RCW 82.08.02565; and

26 (b) Machinery and equipment which at the time of first use would
27 have qualified for exemption under RCW 82.12.02565.

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