S-3617.4

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**SENATE BILL 6137**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Cleveland, L. Wilson, and Holy

AN ACT Relating to reinstating semiconductor tax incentives; amending RCW 82.04.2404, 82.08.9651, and 82.12.9651; reenacting and amending RCW 82.32.790, 82.04.426, 82.04.448, 82.08.965, 82.08.970, 82.12.965, 82.12.970, and 84.36.645; adding a new section to chapter 82.04 RCW; creating new sections; providing a contingent effective date; providing expiration dates; providing contingent expiration dates; and declaring an emergency.

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

**Sec.**  RCW 82.32.790 and 2022 c 56 s 11 are each reenacted and amended to read as follows:

(1)(a) ((~~Sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003~~)) RCW 82.04.426, 82.04.448, 82.08.965, 82.08.970, 82.12.965, 82.12.970, 84.36.645, and section 2 of this act are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, ((~~2024~~)) 2034.

(b) For the purposes of this section:

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

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

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least ((~~one billion dollars~~)) $1,000,000,000.

(2) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, if the contract is signed and received by January 1, ((~~2024~~)) 2034, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, the office of the code reviser, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that ((~~chapter 149, Laws of 2003 is~~)) are no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under ((~~RCW 82.04.240(2)~~)) section 2 of this act or claiming an exemption or credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not authorized to make a second determination regarding the effective date of the sections referenced in subsection (1) of this section.

(4)(a) This section expires January 1, ((~~2024~~)) 2035, if the contingency in subsection (2) of this section does not occur by January 1, ((~~2024~~)) 2034, as determined by the department.

(b) The department must provide written notice of the expiration date of this section and the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, the office of the code reviser, and others as deemed appropriate by the department.

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

(1) Upon every person engaging within this state in the business of manufacturing semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent. For the purposes of this subsection "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(2) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(4) This section expires January 1, 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.426 and 2017 3rd sp.s. c 37 s 524 are each reenacted and amended to read as follows:

(1) The tax imposed by ((~~RCW 82.04.240(2)~~)) section 2 of this act does not apply to any person in respect to the manufacturing of semiconductor microchips.

(2) For the purposes of this section:

(a) "Manufacturing semiconductor microchips" means taking raw polished semiconductor wafers and embedding integrated circuits on the wafers using processes such as masking, etching, and diffusion; and

(b) "Integrated circuit" means a set of microminiaturized, electronic circuits.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(5) This section expires January 1, ((~~2024~~)) 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.448 and 2017 3rd sp.s. c 37 s 516 are each reenacted and amended to read as follows:

(1) Subject to the limits and provisions of this section, a credit is authorized against the tax otherwise due under ((~~RCW 82.04.240(2)~~)) section 2 of this act for persons engaged in the business of manufacturing semiconductor materials. For the purposes of this section "semiconductor materials" has the same meaning as provided in ((~~RCW 82.04.240(2)~~)) section 2 of this act.

(2)(a) The credit under this section equals ((~~three thousand dollars~~)) $3,000 for each employment position used in manufacturing production that takes place in a new building exempt from sales and use tax under RCW 82.08.965 and 82.12.965. A credit is earned for the calendar year a person fills a position. Additionally a credit is earned for each year the position is maintained over the subsequent consecutive years, up to eight years. Those positions that are not filled for the entire year are eligible for ((~~fifty~~)) 50 percent of the credit if filled less than six months, and the entire credit if filled more than six months.

(b) To qualify for the credit, the manufacturing activity of the person must be conducted at a new building that qualifies for the exemption from sales and use tax under RCW 82.08.965 and 82.12.965.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation, during which time employment at the new building at the same site is increased, the person is eligible for credit for employment at the existing building and new building, with the limitation that the combined eligible employment not exceed full employment at the new building. "Full employment" has the same meaning as in RCW 82.08.965. The credit may not be earned until the commencement of commercial production, as that term is used in RCW 82.08.965.

(3) No application is necessary for the tax credit. The person is subject to all of the requirements of chapter 82.32 RCW. In no case may a credit earned during one calendar year be carried over to be credited against taxes incurred in a subsequent calendar year. No refunds may be granted for credits under this section.

(4) If at any time the department finds that a person is not eligible for tax credit under this section, the amount of taxes for which a credit has been claimed is immediately due. The department must assess interest, but not penalties, on the taxes for which the person is not eligible. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, is retroactive to the date the tax credit was taken, and accrues until the taxes for which a credit has been used are repaid.

(5) A person claiming the credit under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) Credits may be claimed after the expiration date of this section, for those buildings at which commercial production began before the expiration date of this section, subject to all of the eligibility criteria and limitations of this section.

(7) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(8) This section expires January 1, ((~~2024~~)) 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.08.965 and 2017 3rd sp.s. c 37 s 510 are each reenacted and amended to read as follows:

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

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

(a) The manufacturer or processor for hire must maintain at least ((~~seventy-five~~)) 75 percent of full employment at the new building for which the exemption under this section is claimed.

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

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

(d) No application is necessary for the tax exemption. The person is subject to all the requirements of chapter 82.32 RCW. A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

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

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

(5) For the purposes of this section:

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

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

(c) "Semiconductor materials" has the same meaning as provided in ((~~RCW 82.04.240(2)~~)) section 2 of this act.

(6) No exemption may be taken after the expiration date of this section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(7) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(8) This section expires January 1, ((~~2024~~)) 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.08.970 and 2017 3rd sp.s. c 37 s 520 are each reenacted and amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the same meaning as provided in ((~~RCW 82.04.240(2)~~)) section 2 of this act.

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(4) This section expires January 1, ((~~2024~~)) 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.12.965 and 2017 3rd sp.s. c 37 s 512 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of tangible personal property that will be incorporated as an ingredient or component of new buildings used for the manufacturing of semiconductor materials during the course of constructing such buildings or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The eligibility requirements, conditions, and definitions in RCW 82.08.965 apply to this section, including the filing of a complete annual tax performance report with the department under RCW 82.32.534.

(3) No exemption may be taken after the expiration date of this section, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(4) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(5) This section expires January 1, ((~~2024~~)) 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.12.970 and 2017 3rd sp.s. c 37 s 522 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the same meaning as provided in ((~~RCW 82.04.240(2)~~)) section 2 of this act.

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(4) This section expires January 1, ((~~2024~~)) 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 84.36.645 and 2017 3rd sp.s. c 37 s 514 are each reenacted and amended to read as follows:

(1) Machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 used in manufacturing semiconductor materials at a building exempt from sales and use tax and in compliance with the employment requirement under RCW 82.08.965 and 82.12.965 are exempt from property taxation. "Semiconductor materials" has the same meaning as provided in ((~~RCW 82.04.240(2)~~)) section 2 of this act.

(2) A person seeking this exemption must make application to the county assessor, on forms prescribed by the department.

(3) A person claiming an exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section ((~~is effective for~~)) applies to taxes levied for collection ((~~one year after the effective date of section 150, chapter 114, Laws of 2010~~)) in the calendar year subsequent to the effective date of this section and thereafter.

(5) Pursuant to RCW 82.32.790, this section is contingent on the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(6) This section expires January 1, ((~~2024~~)) 2034, unless the contingency in RCW 82.32.790(2) occurs.

**Sec.**  RCW 82.04.2404 and 2021 c 145 s 6 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing or processing for hire semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) For the purposes of this section "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for ((~~fifty~~)) 50 percent of the amount of the tax preference under this section, if the number of persons employed by the person claiming the tax preference is less than ((~~ninety~~)) 90 percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed.

(5) This section expires ((~~December~~)) January 1, ((~~2028~~)) 2034.

**Sec.**  RCW 82.08.9651 and 2021 c 145 s 12 are each amended to read as follows:

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

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the exemption under this section must reimburse the department for ((~~fifty~~)) 50 percent of the amount of the tax preference under this section, if the number of persons employed by the person claiming the tax preference is less than ((~~ninety~~)) 90 percent of the person's three-year employment average for the three years immediately preceding the year in which the exemption is claimed.

(5) This section expires ((~~December~~)) January 1, ((~~2028~~)) 2034.

**Sec.**  RCW 82.12.9651 and 2021 c 145 s 15 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the exemption under this section must reimburse the department for ((~~fifty~~)) 50 percent of the amount of the tax preference under this section, if the number of persons employed by the person claiming the tax preference is less than ((~~ninety~~)) 90 percent of the person's three-year employment average for the three years immediately preceding the year in which the exemption is claimed.

(5) This section expires ((~~December~~)) January 1, ((~~2028~~)) 2034.

NEW SECTION. **Sec.**  RCW 82.32.808 does not apply to sections 2 through 9 of this act.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for section 10, chapter . . ., Laws of 2024 (section 10 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The tax preference performance statement in section 1, chapter 139, Laws of 2020 applies to the expansion of the tax preference in section 10 of this act.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for sections 11 and 12, chapter . . ., Laws of 2024 (sections 11 and 12 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for the preferential tax treatment.

(2) The tax preference performance statement in section 2, chapter 139, Laws of 2020 applies to the expansion of the tax preferences in sections 11 and 12 of this act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**