
HOUSE BILL 2346

State of Washington

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By Representatives Darneille, Orcutt, McIntire, Conway, Ericks, Hunt and Kenney

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1 AN ACT Relating to extending the tax incentives provided for
2 qualified research and development to persons performing both phase I
3 and II clinical trials; amending RCW 82.63.010; and creating a new
4 section.

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

6 **Sec. 1.** RCW 82.63.010 and 2004 c 2 s 3 are each amended to read as
7 follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Advanced computing" means technologies used in the designing
11 and developing of computing hardware and software, including
12 innovations in designing the full spectrum of hardware from hand-held
13 calculators to super computers, and peripheral equipment.

14 (2) "Advanced materials" means materials with engineered properties
15 created through the development of specialized processing and synthesis
16 technology, including ceramics, high value-added metals, electronic
17 materials, composites, polymers, and biomaterials.

18 (3) "Applicant" means a person applying for a tax deferral under
19 this chapter.

1 (4)(a) "Biotechnology" means the application of technologies, such
2 as recombinant DNA techniques, biochemistry, molecular and cellular
3 biology, genetics and genetic engineering, cell fusion techniques, and
4 new bioprocesses, using living organisms, or parts of organisms, to
5 produce or modify products, to improve plants or animals, to develop
6 microorganisms for specific uses, to identify targets for small
7 molecule pharmaceutical development, or to transform biological systems
8 into useful processes and products or to develop microorganisms for
9 specific uses.

10 (b) The term also includes the conducting of studies of
11 investigational new drugs in humans required by a governmental entity,
12 such as the United States food and drug administration, before an
13 investigational new drug can be licensed and marketed for human use.

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

15 (6) "Electronic device technology" means technologies involving
16 microelectronics; semiconductors; electronic equipment and
17 instrumentation; radio frequency, microwave, and millimeter
18 electronics; optical and optic-electrical devices; and data and digital
19 communications and imaging devices.

20 (7) "Eligible investment project" means an investment project which
21 either initiates a new operation, or expands or diversifies a current
22 operation by expanding, renovating, or equipping an existing facility.
23 The lessor or owner of the qualified building is not eligible for a
24 deferral unless:

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

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

29 (ii) The lessee that receives the economic benefit of the deferral
30 agrees in writing with the department to complete the annual survey
31 required under RCW 82.63.020(2); and

32 (iii) The economic benefit of the deferral passed to the lessee is
33 no less than the amount of tax deferred by the lessor and is evidenced
34 by written documentation of any type of payment, credit, or other
35 financial arrangement between the lessor or owner of the qualified
36 building and the lessee.

37 (8) "Environmental technology" means assessment and prevention of

1 threats or damage to human health or the environment, environmental
2 cleanup, and the development of alternative energy sources.

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

7 (10) "Person" has the meaning given in RCW 82.04.030 and includes
8 state universities as defined in RCW 28B.10.016.

9 (11) "Pilot scale manufacturing" means design, construction, and
10 testing of preproduction prototypes and models in the fields of
11 biotechnology, advanced computing, electronic device technology,
12 advanced materials, and environmental technology other than for
13 commercial sale. As used in this subsection, "commercial sale"
14 excludes sales of prototypes or sales for market testing if the total
15 gross receipts from such sales of the product, service, or process do
16 not exceed one million dollars.

17 (12) "Qualified buildings" means construction of new structures,
18 and expansion or renovation of existing structures for the purpose of
19 increasing floor space or production capacity used for pilot scale
20 manufacturing or qualified research and development, including plant
21 offices and other facilities that are an essential or an integral part
22 of a structure used for pilot scale manufacturing or qualified research
23 and development. If a building is used partly for pilot scale
24 manufacturing or qualified research and development, and partly for
25 other purposes, the applicable tax deferral shall be determined by
26 apportionment of the costs of construction under rules adopted by the
27 department.

28 (13) "Qualified machinery and equipment" means fixtures, equipment,
29 and support facilities that are an integral and necessary part of a
30 pilot scale manufacturing or qualified research and development
31 operation. "Qualified machinery and equipment" includes: Computers;
32 software; data processing equipment; laboratory equipment,
33 instrumentation, and other devices used in a process of experimentation
34 to develop a new or improved pilot model, plant process, product,
35 formula, invention, or similar property; manufacturing components such
36 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
37 vats, tanks, and fermenters; operating structures; and all other
38 equipment used to control, monitor, or operate the machinery. For

1 purposes of this chapter, qualified machinery and equipment must be
2 either new to the taxing jurisdiction of the state or new to the
3 certificate holder, except that used machinery and equipment may be
4 treated as qualified machinery and equipment if the certificate holder
5 either brings the machinery and equipment into Washington or makes a
6 retail purchase of the machinery and equipment in Washington or
7 elsewhere.

8 (14) "Qualified research and development" means research and
9 development performed within this state in the fields of advanced
10 computing, advanced materials, biotechnology, electronic device
11 technology, and environmental technology.

12 (15) "Recipient" means a person receiving a tax deferral under this
13 chapter.

14 (16)(a) "Research and development" means activities performed to
15 discover technological information, and technical and nonroutine
16 activities concerned with translating technological information into
17 new or improved products, processes, techniques, formulas, inventions,
18 or software. The term includes exploration of a new use for an
19 existing drug, device, or biological product if the new use requires
20 separate licensing by the federal food and drug administration under
21 chapter 21, C.F.R., as amended. The term also includes the conducting
22 of both phase I and II clinical trials on a regular basis to determine
23 whether investigational new drugs for use in humans are safe and
24 effective. The term does not include adaptation or duplication of
25 existing products where the products are not substantially improved by
26 application of the technology(~~(, nor does)~~). The term also does not
27 include surveys ((and)); studies, other than phase I and II clinical
28 trials; social science and humanities research(~~(,)~~); market research or
29 testing(~~(,)~~); quality control(~~(,)~~); sale promotion and service(~~(,)~~);
30 computer software developed for internal use(~~(,)~~); and research in
31 areas such as improved style, taste, and seasonal design.

32 (b) For purposes of this subsection, the following definitions
33 apply:

34 (i) "Phase I clinical trial" means initial studies in patients or
35 healthy volunteer subjects to determine the metabolism and
36 pharmacologic actions of drugs in humans, the side effects associated
37 with increasing doses, and, if possible, to gain early evidence of
38 effectiveness.

1 (ii) "Phase II clinical trial" means controlled clinical studies
2 conducted to evaluate the effectiveness of a drug for a particular
3 indication or indications in patients with the disease or condition
4 under study and to determine the common short-term side effects and
5 risks.

6 (17)(a) "Initiation of construction" means the date that a building
7 permit is issued under the building code adopted under RCW 19.27.031
8 for:

9 (i) Construction of the qualified building, if the underlying
10 ownership of the building vests exclusively with the person receiving
11 the economic benefit of the deferral;

12 (ii) Construction of the qualified building, if the economic
13 benefits of the deferral are passed to a lessee as provided in
14 subsection (7) of this section; or

15 (iii) Tenant improvements for a qualified building, if the economic
16 benefits of the deferral are passed to a lessee as provided in
17 subsection (7) of this section.

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

22 (c) If the investment project is a phased project, "initiation of
23 construction" shall apply separately to each phase.

24 NEW SECTION. Sec. 2. For purposes of RCW 82.04.4452, this act
25 applies with respect to research and development spending and qualified
26 research and development expenditures incurred on or after January 1,
27 2007.

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