
SUBSTITUTE HOUSE BILL 3260

State of Washington

60th Legislature

2008 Regular Session

By House Finance (originally sponsored by Representatives Grant, Santos, Eddy, Springer, Goodman, Warnick, Hinkle, Armstrong, Orcutt, Kelley, McIntire, and Ross; by request of Governor Gregoire)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to providing partial state sales and use tax
2 exemptions in respect to the purchase or use of server equipment
3 comprising only the server chassis and all computer hardware and
4 software contained within the server chassis, where the server
5 equipment replaces existing server equipment in certain buildings
6 constructed or refurbished to house servers and located in a rural
7 county as defined in RCW 82.14.370(5); amending RCW 81.104.170;
8 reenacting and amending RCW 82.32.590 and 82.32.600; adding a new
9 section to chapter 82.08 RCW; adding a new section to chapter 82.12
10 RCW; adding a new section to chapter 82.14 RCW; adding a new section to
11 chapter 82.32 RCW; and providing an effective date.

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

13 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
14 to read as follows:

15 (1) A partial exemption from the tax imposed by RCW 82.08.020 in
16 the form of a remittance is provided for sales to qualifying businesses
17 of replacement server equipment to be installed, without intervening
18 use, in an eligible computer data center, and to charges made for labor

1 and services rendered in respect to installing such replacement server
2 equipment. The exemption provided in this section applies only to the
3 state portion of the sales tax.

4 (2)(a) A qualifying business claiming an exemption under this
5 section must first pay the tax imposed by RCW 82.08.020 on sales
6 eligible for exemption under this section and may then apply to the
7 department for remittance of fifty percent of the tax paid.

8 (b) A qualifying business claiming the exemption must submit an
9 application for remittance to the department, not more often than once
10 per calendar quarter, in a form and manner as required by the
11 department. The application must include the amount of exemption
12 claimed, the purchases for which the exemption is claimed, and such
13 other information that the department determines is necessary to
14 determine eligibility for the exemption. A qualifying business
15 claiming the exemption under this section must keep and preserve
16 adequate records establishing the qualifying business's eligibility for
17 the exemption. Pending or approved applications are subject to audit
18 verification by the department.

19 (c) The department must, on a quarterly basis, remit exempted
20 amounts to qualifying businesses that submitted applications during the
21 previous quarter that were approved, in whole or part, by the
22 department.

23 (3) A qualifying business claiming an exemption under this section
24 must complete the annual survey described in section 5 of this act.

25 (4) For purposes of this section:

26 (a) "Computer data center" means a facility comprised of one or
27 more buildings constructed or refurbished specifically, and used
28 primarily, to house servers, where the facility has the following
29 characteristics: (i) Uninterruptible power supplies, generator backup
30 power, or both; (ii) sophisticated fire suppression and prevention
31 systems; and (iii) enhanced physical security, such as: (A) Restricted
32 access to the facility to selected personnel; (B) permanent security
33 guards; video camera surveillance; or an electronic system requiring
34 passcodes, keycards, or biometric scans, such as hand scans and retinal
35 or fingerprint recognition; or (C) security features similar to those
36 in (a)(iii)(A) and (B) of this subsection (4).

37 (b) "Electronic data storage and data management services" include,
38 but are not limited to: Providing data storage and backup services,

1 providing computer processing power, and hosting enterprise software
2 applications. The term also includes hosting web sites that provide
3 free or subscription services such as e-mail, web browsing and
4 searching, media applications, and other related online services.

5 (c) "Eligible computer data center" means a computer data center
6 with at least twenty thousand square feet of floor space dedicated to
7 housing working servers and located in a rural county as defined in RCW
8 82.14.370(5).

9 (d) "Qualifying business" means a business entity that exists for
10 the primary purpose of engaging in commercial activity for profit.

11 For purposes of this definition, "business entity" means a
12 corporation, other than a municipal, quasi-municipal, and public or
13 other corporation created by the state or federal government, tribal
14 government, municipality, or political subdivision of the state;
15 association; limited liability company; partnership, including general
16 partnership, limited partnership, and limited liability partnership; or
17 other legal entity. Consistent with this definition, "business entity"
18 does not include the state or federal government or any of their
19 departments, agencies, and institutions; tribal governments; and
20 political subdivisions of this state.

21 (e) "Replacement server equipment" means server equipment that
22 replaces existing server equipment located at the eligible data center
23 in which the replacement server equipment will be installed.

24 (f)(i) "Server" includes blade or rack-mount servers and means a
25 computer that is used in a computer data center solely to provide
26 electronic data storage and data management services for internal use
27 by the owner or lessee of the computer data center, for clients of the
28 owner or lessee of the computer data center, or both.

29 (ii) "Server" does not include personal computers.

30 (g) "Server equipment" means the server chassis and all computer
31 hardware and software contained within the server chassis. Consistent
32 with this definition, "server equipment" does not include the racks
33 upon which the server chassis is installed, cables, and computer
34 peripherals such as keyboards, monitors, printers, mice, and other
35 devices that work outside of the computer.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW
37 to read as follows:

1 (1) A partial exemption from the tax imposed by RCW 82.12.020 in
2 the form of a remittance is provided for the use by qualifying
3 businesses of replacement server equipment to be installed, without
4 intervening use, in an eligible computer data center, and to the use of
5 labor and services rendered in respect to installing such replacement
6 server equipment. The exemption provided in this section applies only
7 to the state portion of the use tax.

8 (2)(a) A qualifying business claiming an exemption under this
9 section must first pay the tax imposed by RCW 82.12.020 on the use of
10 property and services eligible for exemption under this section and may
11 then apply to the department for remittance of fifty percent of the tax
12 paid.

13 (b) A qualifying business claiming the exemption must submit an
14 application for remittance to the department, not more often than once
15 per calendar quarter, in a form and manner as required by the
16 department. The application must include the amount of exemption
17 claimed, the acquisitions for which the exemption is claimed, and such
18 other information that the department determines is necessary to
19 determine eligibility for the exemption. A qualifying business
20 claiming the exemption under this section must keep and preserve
21 adequate records establishing the qualifying business's eligibility for
22 the exemption. Pending or approved applications are subject to audit
23 verification by the department.

24 (c) The department must, on a quarterly basis, remit exempted
25 amounts to qualifying businesses that submitted applications during the
26 previous quarter that were approved, in whole or part, by the
27 department.

28 (3) The definitions in section 1 of this act apply to this section.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.14 RCW
30 to read as follows:

31 The exemptions in sections 1 and 2 of this act are for the state
32 portion of the sales and use tax only and do not extend to the taxes
33 authorized in this chapter.

34 **Sec. 4.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to read
35 as follows:

36 Cities that operate transit systems, county transportation

1 authorities, metropolitan municipal corporations, public transportation
2 benefit areas, and regional transit authorities may submit an
3 authorizing proposition to the voters and, if approved by a majority of
4 persons voting, fix and impose a sales and use tax in accordance with
5 the terms of this chapter, solely for the purpose of providing high
6 capacity transportation service.

7 The tax authorized pursuant to this section shall be in addition to
8 the tax authorized by RCW 82.14.030 and shall be collected from those
9 persons who are taxable by the state pursuant to chapters 82.08 and
10 82.12 RCW upon the occurrence of any taxable event within the taxing
11 district. The maximum rate of such tax shall be approved by the voters
12 and shall not exceed one percent of the selling price (in the case of
13 a sales tax) or value of the article used (in the case of a use tax).
14 The maximum rate of such tax that may be imposed shall not exceed
15 nine-tenths of one percent in any county that imposes a tax under RCW
16 82.14.340, or within a regional transit authority if any county within
17 the authority imposes a tax under RCW 82.14.340. The exemptions in RCW
18 82.08.820 (~~and~~), 82.12.820, and sections 1 and 2 of this act are for
19 the state portion of the sales and use tax and do not extend to the tax
20 authorized in this section.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.32 RCW
22 to read as follows:

23 (1)(a) The legislature finds that accountability and effectiveness
24 are important aspects of setting tax policy. In order to make policy
25 choices regarding the best use of limited state resources the
26 legislature needs information on how a tax incentive is used.

27 (b) Qualifying businesses claiming an exemption under section 1 or
28 2 of this act must complete an annual survey. The survey is due by
29 March 31st of the year following the calendar year in which a sales or
30 use tax exemption under section 1 or 2 of this act is first claimed and
31 the seven succeeding calendar years. The survey must include the
32 amount of sales and use tax exempted. The survey must also include the
33 following information for employment positions in Washington:

- 34 (i) The number of total employment positions;
35 (ii) Full-time, part-time, and temporary employment positions as a
36 percent of total employment;

1 (iii) The number of employment positions according to the following
2 wage bands: Less than thirty thousand dollars; thirty thousand dollars
3 or greater, but less than sixty thousand dollars; and sixty thousand
4 dollars or greater. A wage band containing fewer than three
5 individuals may be combined with another wage band; and

6 (iv) The number of employment positions that have employer-provided
7 medical, dental, and retirement benefits, by each of the wage bands.

8 (c) The department may request additional information necessary to
9 measure the results of the deferral program, to be submitted at the
10 same time as the survey.

11 (d) All information collected under this subsection, except the
12 amount of the tax exemption taken, is deemed taxpayer information under
13 RCW 82.32.330 and is not disclosable. Information on the amount of the
14 tax exemption taken is not subject to the confidentiality provisions of
15 RCW 82.32.330 and may be disclosed to the public upon request.

16 (2) If a qualifying business fails to complete the annual survey
17 required under subsection (1)(b) of this section by the date due, an
18 amount equal to all previously exempted state sales and use taxes is
19 immediately due and payable. Interest and penalties for taxes due and
20 payable under this subsection are prospective only. The due date for
21 determining interest and penalties on taxes payable under this
22 subsection is April 1st of the year in which the qualifying business
23 fails to complete the annual survey.

24 (3) The joint legislative audit and review committee must use the
25 information to study the sales and use tax exemptions authorized in
26 this act. The committee must report to the legislature by December 1,
27 2012, and December 1, 2015. The reports must measure the effect of the
28 program on job creation, the number of jobs created for Washington
29 residents in rural counties, company growth, the diversification of the
30 state's economy in rural counties, growth in high technology investment
31 in rural counties, the movement of high technology firms operations
32 into the state, and such other factors as the department selects.

33 **Sec. 6.** RCW 82.32.590 and 2006 c 354 s 17, 2006 c 300 s 10, 2006
34 c 177 s 8, 2006 c 112 s 7, and 2006 c 84 s 7 are each reenacted and
35 amended to read as follows:

36 (1) If the department finds that the failure of a taxpayer to file
37 an annual survey or annual report under RCW 82.04.4452, 82.32.5351,

1 82.32.650, 82.32.635, 82.32.640, 82.32.630, 82.32.610, section 5 of
2 this act, or 82.74.040 by the due date was the result of circumstances
3 beyond the control of the taxpayer, the department shall extend the
4 time for filing the survey or report. Such extension shall be for a
5 period of thirty days from the date the department issues its written
6 notification to the taxpayer that it qualifies for an extension under
7 this section. The department may grant additional extensions as it
8 deems proper.

9 (2) In making a determination whether the failure of a taxpayer to
10 file an annual survey or annual report by the due date was the result
11 of circumstances beyond the control of the taxpayer, the department
12 shall be guided by rules adopted by the department for the waiver or
13 cancellation of penalties when the underpayment or untimely payment of
14 any tax was due to circumstances beyond the control of the taxpayer.

15 **Sec. 7.** RCW 82.32.600 and 2007 c 54 s 23 and 2007 c 54 s 22 are
16 each reenacted and amended to read as follows:

17 (1) Persons required to file annual surveys or annual reports under
18 RCW 82.04.4452 or 82.32.5351, 82.32.610, 82.32.630, 82.32.635,
19 82.32.640, section 5 of this act, or 82.74.040 must electronically file
20 with the department all surveys, reports, returns, and any other forms
21 or information the department requires in an electronic format as
22 provided or approved by the department. As used in this section,
23 "returns" has the same meaning as "return" in RCW 82.32.050.

24 (2) Any survey, report, return, or any other form or information
25 required to be filed in an electronic format under subsection (1) of
26 this section is not filed until received by the department in an
27 electronic format.

28 (3) The department may waive the electronic filing requirement in
29 subsection (1) of this section for good cause shown.

30 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2008.

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