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HOUSE BILL 1411

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Alexander, Williams, McCune, and Moeller

Read first time 01/20/09. Referred to Committee on Finance.

1            AN ACT Relating to sales and use tax exemptions for prescribed  
2 durable medical equipment used in the home and prescribed mobility  
3 enhancing equipment; amending RCW 82.08.0283, 82.12.0277, 82.08.803,  
4 82.12.803, 82.08.945, and 82.12.945; adding a new section to chapter  
5 82.08 RCW; and adding a new section to chapter 82.12 RCW.

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

7            **Sec. 1.** RCW 82.08.0283 and 2007 c 6 s 1101 are each amended to  
8 read as follows:

9            (1) The tax levied by RCW 82.08.020 shall not apply to sales of:

10            (a) Prosthetic devices prescribed, fitted, or furnished for an  
11 individual by a person licensed under the laws of this state to  
12 prescribe, fit, or furnish prosthetic devices, and the components of  
13 such prosthetic devices;

14            (b) Components of prosthetic devices prescribed, fitted, or  
15 furnished for an individual by a person licensed under the laws of this  
16 state to prescribe, fit, or furnish prosthetic devices;

17            (c) Medicines of mineral, animal, and botanical origin prescribed,  
18 administered, dispensed, or used in the treatment of an individual by  
19 a person licensed under chapter 18.36A RCW; (~~and~~

1 ~~(c) Medically prescribed oxygen, including, but not limited to,~~  
2 ~~oxygen concentrator systems, oxygen enricher systems, liquid oxygen~~  
3 ~~systems, and))~~ (d) Durable medical equipment, and the components of  
4 durable medical equipment, for home use and prescribed by a person  
5 licensed under the laws of this state to prescribe such equipment;

6 (e) Gaseous((~~r~~)) or liquid bottled oxygen ((~~systems~~)) used with  
7 durable medical equipment prescribed for an individual by a person  
8 licensed under ((~~chapter 18.57 or 18.71 RCW~~)) the laws of this state  
9 for use in the medical treatment of ((~~that~~)) an individual for home  
10 use; and

11 (f) Mobility enhancing equipment, and the components of mobility  
12 enhancing equipment, prescribed by a person licensed under the laws of  
13 this state to prescribe such equipment.

14 (2) In addition, the tax levied by RCW 82.08.020 shall not apply to  
15 charges made for labor and services rendered in respect to the  
16 repairing, cleaning, altering, or improving of any of the items  
17 exempted under subsection (1) of this section.

18 ~~(3) ((The exemption in subsection (1) of this section shall not~~  
19 ~~apply to sales of durable medical equipment, other than as specified in~~  
20 ~~subsection (1)(c) of this section, or mobility enhancing equipment.~~

21 ~~(4))~~ The definitions in this subsection apply throughout this  
22 section.

23 (a) "Prosthetic device" means a replacement, corrective, or  
24 supportive device, including repair and replacement parts for a  
25 prosthetic device, worn on or in the body to:

- 26 (i) Artificially replace a missing portion of the body;
- 27 (ii) Prevent or correct a physical deformity or malfunction; or
- 28 (iii) Support a weak or deformed portion of the body.

29 (b) "Durable medical equipment" means equipment, including repair  
30 and replacement parts for durable medical equipment that:

- 31 (i) Can withstand repeated use;
- 32 (ii) Is primarily and customarily used to serve a medical purpose;
- 33 (iii) Generally is not useful to a person in the absence of illness  
34 or injury; and
- 35 (iv) Is not worn in or on the body.

36 (c) "Mobility enhancing equipment" means equipment, including  
37 repair and replacement parts for mobility enhancing equipment that:

1 (i) Is primarily and customarily used to provide or increase the  
2 ability to move from one place to another and that is appropriate for  
3 use either in a home or a motor vehicle;

4 (ii) Is not generally used by persons with normal mobility; and

5 (iii) Does not include any motor vehicle or equipment on a motor  
6 vehicle normally provided by a motor vehicle manufacturer.

7 (d) The terms "durable medical equipment" and "mobility enhancing  
8 equipment" are mutually exclusive.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW  
10 to read as follows:

11 (1) An exemption from the tax imposed by RCW 82.08.020 in the form  
12 of a refund is provided for sales of:

13 (a) Medically prescribed oxygen, including, but not limited to,  
14 oxygen concentrator systems, oxygen enricher systems, liquid oxygen  
15 systems, and gaseous, bottled oxygen systems prescribed for an  
16 individual by a person licensed under the laws of this state for use in  
17 the medical treatment of that individual for other than home use;

18 (b) Repair, replacement, and component parts for medically  
19 prescribed oxygen for other than home use; and

20 (c) Labor and services rendered in respect to the repairing,  
21 cleaning, altering, or improving of medically prescribed oxygen for  
22 other than home use.

23 (2) Sellers shall collect tax on sales subject to this exemption.  
24 The buyer shall apply for a refund directly from the department in a  
25 form and manner prescribed by the department.

26 **Sec. 3.** RCW 82.12.0277 and 2007 c 6 s 1102 are each amended to  
27 read as follows:

28 (1) The provisions of this chapter shall not apply in respect to  
29 the use of:

30 (a) Prosthetic devices prescribed, fitted, or furnished for an  
31 individual by a person licensed under the laws of this state to  
32 prescribe, fit, or furnish prosthetic devices, and the components of  
33 such prosthetic devices;

34 (b) Components of such prosthetic devices prescribed, fitted, or  
35 furnished for an individual by a person licensed under the laws of this  
36 state to prescribe, fit, or furnish prosthetic devices;

1 (c) Medicines of mineral, animal, and botanical origin prescribed,  
2 administered, dispensed, or used in the treatment of an individual by  
3 a person licensed under chapter 18.36A RCW; (~~and~~

4 ~~(e) Medically prescribed oxygen, including, but not limited to,~~  
5 ~~oxygen concentrator systems, oxygen enricher systems, liquid oxygen~~  
6 ~~systems, and))~~ (d) Durable medical equipment, and the components of

7 durable medical equipment, for home use and prescribed by a person  
8 licensed under the laws of this state to prescribe such equipment;

9 (e) Gaseous(~~(r)~~) or liquid bottled oxygen (~~(systems)~~) used with  
10 durable medical equipment prescribed for an individual by a person  
11 licensed under (~~chapter 18.57 or 18.71 RCW~~) the laws of this state  
12 for use in the medical treatment of (~~that~~) an individual for home  
13 use; and

14 (f) Mobility enhancing equipment, and the components of mobility  
15 enhancing equipment, prescribed by a person licensed under the laws of  
16 this state to prescribe such equipment.

17 (2) In addition, the provisions of this chapter shall not apply in  
18 respect to the use of labor and services rendered in respect to the  
19 repairing, cleaning, altering, or improving of any of the items  
20 exempted under subsection (1) of this section.

21 ~~(3) (~~The exemption provided by subsection (1) of this section~~~~  
22 ~~shall not apply to the use of durable medical equipment, other than as~~  
23 ~~specified in subsection (1)(c) of this section, or mobility enhancing~~  
24 ~~equipment.~~

25 ~~(4))~~ "Prosthetic device," "durable medical equipment," and  
26 "mobility enhancing equipment" have the same meanings as in RCW  
27 82.08.0283.

28 NEW SECTION. Sec. 4. A new section is added to chapter 82.12 RCW  
29 to read as follows:

30 (1) The provisions of this chapter must not apply in respect to the  
31 use of:

32 (a) Medically prescribed oxygen, including, but not limited to,  
33 oxygen concentrator systems, oxygen enricher systems, liquid oxygen  
34 systems, and gaseous, bottled oxygen systems prescribed for an  
35 individual by a person licensed under the laws of this state for use in  
36 the medical treatment of that individual for other than home use;

1 (b) Repair, replacement, and component parts for any of the items  
2 exempted in (a) of this subsection; and

3 (c) Labor and services rendered in respect to the repairing,  
4 cleaning, altering, or improving of any of the items exempted in (a) of  
5 this subsection.

6 (2) Sellers obligated to collect use tax shall collect tax on sales  
7 subject to this exemption. The buyer shall apply for a refund directly  
8 from the department in a form and manner prescribed by the department.

9 **Sec. 5.** RCW 82.08.803 and 2007 c 6 s 1103 are each amended to read  
10 as follows:

11 (1) An exemption from the tax imposed by RCW 82.08.020 in the form  
12 of a refund is provided for sales of nebulizers for other than home  
13 use, including repair, replacement, and component parts for such  
14 nebulizers, for human use pursuant to a prescription. In addition, the  
15 tax levied by RCW 82.08.020 (~~shall~~) may not apply to charges made for  
16 labor and services rendered in respect to the repairing, cleaning,  
17 altering, or improving of nebulizers that are exempt under this  
18 section. "Nebulizer" means a device, not a building fixture, that  
19 converts a liquid medication into a mist so that it can be inhaled.

20 (2) Sellers (~~shall~~) must collect tax on sales subject to this  
21 exemption. The buyer (~~shall~~) must apply for a refund directly from  
22 the department in a form and manner prescribed by the department.

23 **Sec. 6.** RCW 82.12.803 and 2007 c 6 s 1104 are each amended to read  
24 as follows:

25 (1) The provisions of this chapter (~~shall~~) may not apply in  
26 respect to the use of nebulizers for other than home use, including  
27 repair, replacement, and component parts for such nebulizers, for human  
28 use pursuant to a prescription. In addition, the provisions of this  
29 chapter shall not apply in respect to labor and services rendered in  
30 respect to the repairing, cleaning, altering, or improving of  
31 nebulizers that are exempt under this section. "Nebulizer" has the  
32 same meaning as in RCW 82.08.803.

33 (2) Sellers obligated to collect use tax (~~shall~~) must collect tax  
34 on sales subject to this exemption. The buyer (~~shall~~) must apply for  
35 a refund directly from the department in a form and manner prescribed  
36 by the department.

1       **Sec. 7.** RCW 82.08.945 and 2004 c 153 s 110 are each amended to  
2 read as follows:

3       (~~The tax levied by RCW 82.08.020 shall not apply to~~) (1) An  
4 exemption from the tax imposed by RCW 82.08.020 in the form of a refund  
5 is provided for sales of kidney dialysis devices for other than home  
6 use, including repair (~~and~~), replacement, and component parts, for  
7 human use pursuant to a prescription. In addition, the tax levied by  
8 RCW 82.08.020 (~~shall~~) may not apply to charges made for labor and  
9 services rendered in respect to the repairing, cleaning, altering, or  
10 improving of kidney dialysis devices that are exempt under this  
11 section.

12       (2) Sellers must collect tax on sales subject to this exemption.  
13 The buyer must apply for a refund directly from the department in a  
14 form and manner prescribed by the department.

15       **Sec. 8.** RCW 82.12.945 and 2004 c 153 s 111 are each amended to  
16 read as follows:

17       (1) The provisions of this chapter (~~shall~~) may not apply to the  
18 use of kidney dialysis devices for other than home use, including  
19 repair (~~and~~), replacement, and component parts, for human use  
20 pursuant to a prescription. In addition, the provisions of this  
21 chapter (~~shall~~) may not apply in respect to the use of labor and  
22 services rendered in respect to the repairing, cleaning, altering, or  
23 improving of kidney dialysis devices that are exempt under this  
24 section.

25       (2) Sellers must collect tax on sales subject to this exemption.  
26 The buyer must apply for a refund directly from the department in a  
27 form and manner prescribed by the department.

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