
SUBSTITUTE HOUSE BILL 2283

State of Washington 61st Legislature 2009 Regular Session

By House Finance (originally sponsored by Representatives Santos, Armstrong, Condotta, Ericks, Ormsby, and Kelley)

READ FIRST TIME 03/03/09.

1 AN ACT Relating to providing sales and use tax exemptions to
2 eligible data centers located in a rural county as defined in RCW
3 82.14.370(5); adding a new section to chapter 82.08 RCW; adding a new
4 section to chapter 82.12 RCW; and providing expiration dates.

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

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

8 (1) Subject to the requirements of this section, an exemption from
9 the tax imposed by RCW 82.08.020 is provided for sales to qualifying
10 businesses of: (a) Server equipment, to be installed, in an eligible
11 computer data center, and for sales of labor and services rendered in
12 respect to installing such server equipment; and (b) temperature and
13 climate control infrastructure and power infrastructure, including
14 labor and services rendered in respect to constructing, installing,
15 repairing, altering, or improving such infrastructure.

16 (2)(a) In order to claim the exemption under this section, a
17 qualifying business must submit an application to the department. The
18 application must include the information necessary, as required by the
19 department, to determine that the business qualifies for the exemption

1 under this section. The department must issue a decision on the
2 application within ninety days of receipt. If the department fails to
3 issue a decision, the application for the exemption is deemed to have
4 been approved.

5 (b) In the event that the person claiming the exemption did not
6 claim the exemption in advance of the first qualifying purchase and
7 paid the vendor the sales tax, the department must accept an
8 application after the purchase for purposes of refunding the sales tax
9 paid on the equipment and services described in subsection (1) of this
10 section. The department must issue a decision on the application
11 within ninety days of receipt. If the department fails to issue a
12 decision, the application for the exemption is deemed to have been
13 approved.

14 (3) A person who claims an exemption under this section must file
15 an annual report with the department as required under section 103,
16 chapter . . . (Substitute House Bill No. 1597), Laws of 2009.

17 (4) The exemption provided in this section is provided in the form
18 of a refund. Sellers must collect the tax on sales subject to this
19 exemption. The buyer must apply for a refund directly from the
20 department in a form and manner required by the department. The refund
21 is for fifty percent of state and local sales taxes. The fifty percent
22 of state sales tax not refunded under this section must be deposited in
23 the green industries jobs training account created in RCW 43.330.310.
24 The department may not refund more than twenty million dollars of state
25 sales and use taxes under this section or section 2 of this act. The
26 department may not provide refunds under this section before April 1,
27 2010. A refund may not be granted until the computer data center has
28 been granted a certificate of occupancy.

29 (5) A person who claims an exemption under this section must comply
30 with the prevailing wage requirements of chapter 39.12 RCW. A person
31 who claims an exemption under this section must also use apprentices
32 for no less than fifteen percent of the labor hours required for the
33 installing of server equipment, temperature and climate control
34 infrastructure, and power infrastructure.

35 (6) If a person fails to fulfill the requirements of this section,
36 the department must declare the amount of taxes exempted under this
37 section immediately due and payable. However, the department may not
38 declare the amount of taxes immediately due and payable if the failure

1 was the result of illness, death, natural disasters, or unforeseen
2 computer system failures. Excise taxes payable under this section are
3 subject to interest, as provided in chapter 82.32 RCW. Requirements
4 under this section exclusively include:

5 (a) The person must submit an annual report as required by
6 subsection (3) of this section.

7 (b) The person must increase employment in the state by a minimum
8 of thirty-five family wage jobs no later than six years after the
9 installation of equipment of the computer data center. For purposes of
10 the report required by this section, family wage jobs are new permanent
11 employment positions requiring forty hours of weekly work, or their
12 equivalent, on a full-time basis and paying a wage equivalent to or
13 greater than one hundred fifty percent of the per capita personal
14 income of the county in which the qualified project is located. The
15 person must provide health insurance coverage for the employee.

16 This requirement does not apply to existing computer data centers
17 if the equipment and services are those described in subsection (1) of
18 this section and are for the purpose of refreshing, maintaining, or
19 replacing existing equipment due to changes in technology,
20 obsolescence, or defect.

21 (c) No later than six years following the date the eligible
22 computer data center begins to provide commercial service, or the date
23 the installation of the equipment is final, the person must document
24 qualifying expenditures equal to or exceeding two hundred million
25 dollars.

26 (7) For purposes of this section:

27 (a) "Commercial service" means the point at which the equipment
28 described in subsection (1) of this section becomes operational for its
29 intended purposes and excludes testing or other activities in
30 preparation for the same to become operational.

31 (b) "Computer data center" means a facility comprised of one or
32 more buildings constructed or refurbished specifically, and used
33 primarily, to house servers and related equipment and support staff,
34 where the facility has the following characteristics:

35 (i) Uninterruptible power supplies, generator backup power, or
36 both;

37 (ii) Sophisticated fire suppression and prevention systems; and

1 (iii) Enhanced physical security, such as: (A) Restricted access
2 to the facility to selected personnel; (B) permanent security guards;
3 video camera surveillance; or an electronic system requiring passcodes,
4 keycards, or biometric scans, such as hand scans and retinal or
5 fingerprint recognition; or (C) security features similar to those in
6 (b)(iii)(A) and (B) of this subsection (7). A computer data center
7 includes, but is not limited to, a web search portal business.

8 (c) "Store or manage electronic data" includes, but is not limited
9 to: Providing data storage and backup services, providing computer
10 processing power, and hosting enterprise software applications. The
11 term also includes hosting web sites that provide free or subscription
12 services such as e-mail, web browsing and searching, media
13 applications, and other related online services.

14 (d) "Eligible computer data center" means a physical location in
15 the state consisting of a single parcel of real property or adjacent
16 parcels of real property owned by the same taxpayer, acquired or
17 improved after July 1, 2009, through the constructing or refurbishing
18 of a computer data center with at least twenty thousand square feet of
19 floor space dedicated to housing working servers and located in a rural
20 county as defined in RCW 82.14.370(5).

21 (e) "Installation of equipment" means when the first piece of
22 equipment described in subsection (1) of this section is installed at
23 the site and ordering the equipment, preparing the equipment for
24 installation, or other activities in preparation for the installation
25 of such equipment.

26 (f) "Power infrastructure" means all fixtures, equipment, and
27 facilities necessary for the transformation, distribution, or
28 management of electricity at an eligible data center. The term
29 includes, but is not limited to, exterior taxpayer-owned electrical
30 substations, generators, wiring, backup power generation systems,
31 battery systems, and related infrastructure and cogeneration equipment.

32 (g)(i) "Qualifying business" means a business entity that: Exists
33 for the primary purpose of engaging in commercial activity for profit;
34 and purchases server equipment, power infrastructure, or temperature
35 and climate control infrastructure for use in a computer data center.

36 (ii) For purposes of this subsection (7)(g), "business entity"
37 means a corporation, other than a municipal, quasi-municipal, and
38 public or other corporation created by the state or federal government,

1 tribal government, municipality, or political subdivision of the state;
2 association; limited liability company; partnership, including general
3 partnership, limited partnership, and limited liability partnership; or
4 other legal entity. Consistent with this subsection (7)(g), "business
5 entity" does not include the state or federal government or any of
6 their departments, agencies, and institutions; tribal governments; and
7 political subdivisions of this state.

8 (h) "Qualifying expenditure" means an investment in real and
9 personal property of two hundred million dollars for capital expenses
10 including, but not limited to, land acquisition, preparation, and
11 improvement, facility design, engineering and construction, and
12 installation of server equipment, temperature and climate control
13 infrastructure, and power infrastructure. Expenditures made prior to
14 July 1, 2011, are deemed qualifying expenditures for purposes of
15 determining eligibility of a computer data center for the exemption
16 offered under this section.

17 (i) "Server" includes:

18 (i) Blade or rack-mount servers and means a computer that is used
19 in a computer data center solely to store or manage electronic data, to
20 provide internet access, navigation, or search functions for the owner
21 or lessee of the computer data center, or for clients of the owner or
22 lessee of the computer data center, or both; or

23 (ii) Computers used for research and development to support
24 capabilities to store or manage electronic data or provide internet
25 access, navigation, or search functions.

26 (j) "Server equipment" means the server chassis and all computer
27 hardware and software contained within the server chassis. Consistent
28 with this subsection (7)(j), "server equipment" includes the racks upon
29 which the server chassis is installed, cables, and computer peripherals
30 such as keyboards, monitors, printers, mice, and other devices that
31 work outside of the computer.

32 (k) "Temperature and climate control infrastructure" means all
33 fixtures, equipment, and facilities necessary for controlling the
34 temperature and humidity at an eligible computer data center. The term
35 includes heating, ventilation, and air conditioning fixtures and
36 equipment; cooling systems; cooling towers; temperature sensors;
37 humidity sensors; fans; and perforated floor tiles.

1 (1) "Web search portal business" means an entity among whose
2 primary business is to provide a content and search portal to organize
3 information; to access, search, or navigate the internet, including
4 researching or developing technologies to support capabilities to
5 organize information; and to provide internet access, navigation, and
6 search functionalities.

7 (8) The joint legislative audit and review committee shall complete
8 a tax preference review under RCW 43.136.055 for this section and
9 section 2 of this act by January 1, 2011.

10 (9) This section expires July 1, 2011.

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

13 (1) An exemption from the tax imposed by RCW 82.12.020 is provided
14 for sales to qualifying businesses of: (a) Server equipment, to be
15 installed, in an eligible computer data center, and to charges made for
16 labor and services rendered in respect to installing such server
17 equipment; and (b) temperature and climate control infrastructure and
18 power infrastructure, including labor and services rendered in respect
19 to constructing, installing, repairing, altering, or improving such
20 infrastructure.

21 (2) The exemption provided in this section does not apply if the
22 server equipment is withdrawn from an eligible computer data center and
23 not reused in an eligible computer data center. The property must be
24 taxed at its fair market value at the time of first taxable use in
25 Washington.

26 (3) In order to claim the exemption under this section, a
27 qualifying business must submit an application to the department. The
28 application must include the information necessary, as required by the
29 department, to determine that a business qualifies for the exemption
30 under this section. The department must issue a decision on the
31 application within ninety days of its receipt. If the department fails
32 to issue a decision, the application for the exemption is deemed to
33 have been approved.

34 (4) The definitions, limitations, and refund provisions in section
35 1 of this act apply to this section.

36 (5) If a person fails to fulfill the requirements of section 1 of

1 this act, all taxes exempt under this section become immediately due
2 and payable. Excise taxes payable under this section are subject to
3 interest, as provided under chapter 82.32 RCW.

4 (6) This section expires July 1, 2011.

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