
HOUSE BILL 1970

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Reykdal, Pollet, Fitzgibbon, Wylie, and Ryu

Read first time 02/26/13. Referred to Committee on Finance.

1 AN ACT Relating to increasing accountability for the sales and use
2 tax exemption for machinery and equipment; amending RCW 82.08.02565 and
3 82.12.02565; and creating a new section.

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

5 **Sec. 1.** RCW 82.08.02565 and 2011 c 23 s 2 are each amended to read
6 as follows:

7 (1)(a) The tax levied by RCW 82.08.020 does not apply to sales to
8 a manufacturer or processor for hire of machinery and equipment used
9 directly in a manufacturing operation or research and development
10 operation, to sales to a person engaged in testing for a manufacturer
11 or processor for hire of machinery and equipment used directly in a
12 testing operation, or to sales of or charges made for labor and
13 services rendered in respect to installing, repairing, cleaning,
14 altering, or improving the machinery and equipment.

15 (b) Sellers making tax-exempt sales under this section must obtain
16 from the purchaser an exemption certificate in a form and manner
17 prescribed by the department by rule. The seller must retain a copy of
18 the certificate for the seller's files.

19 ~~((2) For purposes of this section and RCW 82.12.02565:))~~

1 (2)(a) The purchaser of exempt machinery and equipment must repay
2 all or a portion of the taxes exempted under subsection (1)(a) of this
3 section in accordance with (c) of this subsection if the exempt
4 machinery and equipment is moved to a location out-of-state within ten
5 years of the date of the sale of the exempt machinery and equipment.
6 For purposes of this subsection, machinery and equipment is moved to a
7 location outside the state if the machinery and equipment is
8 transported outside the state of Washington and remains outside of this
9 state for more than sixty consecutive days.

10 (b) Taxes imposed under this subsection are due ninety days after
11 the date that the exempted machinery and equipment left the state and
12 must be paid directly to the department. Penalties and interest as
13 provided in chapter 82.32 RCW apply to delinquent taxes under this
14 subsection. However, no interest or penalties may be assessed on taxes
15 due under this subsection if the total amount of taxes due is paid by
16 the due date in this subsection (2)(b).

17 (c)(i) The amount of taxes that must be repaid under this
18 subsection is determined using the appropriate schedule in (c)(i)(A) or
19 (B) of this subsection.

20 (A) The following repayment schedule must be used if the remaining
21 useful life of the machinery and equipment moved outside this state is
22 greater than the difference between ten minus the number reflecting the
23 year that the machinery and equipment was moved outside the state.

<u>Year Machinery and Equipment Moved</u>	<u>% of Exempt Tax Repaid</u>
<u>1</u>	<u>100%</u>
<u>2</u>	<u>90%</u>
<u>3</u>	<u>80%</u>
<u>4</u>	<u>70%</u>
<u>5</u>	<u>60%</u>
<u>6</u>	<u>50%</u>
<u>7</u>	<u>40%</u>
<u>8</u>	<u>30%</u>
<u>9</u>	<u>20%</u>
<u>10</u>	<u>10%</u>

1 (B) The following repayment schedule must be used if the remaining
2 useful life of the machinery and equipment moved outside this state is
3 less than or equal to the difference between ten minus the number
4 reflecting the year that the machinery and equipment was moved outside
5 the state:

	<u>Remaining useful life</u>	<u>% of Exempt Tax Repaid</u>
6		
7	<u>1</u>	<u>10%</u>
8	<u>2</u>	<u>20%</u>
9	<u>3</u>	<u>30%</u>
10	<u>4</u>	<u>40%</u>
11	<u>5</u>	<u>50%</u>
12	<u>6</u>	<u>60%</u>
13	<u>7</u>	<u>70%</u>
14	<u>8</u>	<u>80%</u>
15	<u>9</u>	<u>90%</u>

16 (ii) For purposes of this subsection (2)(c), "remaining useful
17 life" means the remaining number of tax years for which the purchaser
18 is allowed to claim a depreciation deduction on its federal income tax
19 returns for the machinery and equipment.

20 (d) Taxes incurred in another state or country as a result of
21 moving exempt machinery and equipment out-of-state may not be credited
22 against the taxes due under this subsection.

23 The following definitions in this subsection apply throughout this
24 section unless the context clearly requires otherwise.

25 (3)(a) "Machinery and equipment" means industrial fixtures,
26 devices, and support facilities, and tangible personal property that
27 becomes an ingredient or component thereof, including repair parts and
28 replacement parts. "Machinery and equipment" includes pollution
29 control equipment installed and used in a manufacturing operation,
30 testing operation, or research and development operation to prevent air
31 pollution, water pollution, or contamination that might otherwise
32 result from the manufacturing operation, testing operation, or research
33 and development operation. "Machinery and equipment" also includes
34 digital goods.

1 (b) "Machinery and equipment" does not include:

2 (i) Hand-powered tools;

3 (ii) Property with a useful life of less than one year;

4 (iii) Buildings, other than machinery and equipment that is
5 permanently affixed to or becomes a physical part of a building; and

6 (iv) Building fixtures that are not integral to the manufacturing
7 operation, testing operation, or research and development operation
8 that are permanently affixed to and become a physical part of a
9 building, such as utility systems for heating, ventilation, air
10 conditioning, communications, plumbing, or electrical.

11 (c) Machinery and equipment is "used directly" in a manufacturing
12 operation, testing operation, or research and development operation if
13 the machinery and equipment:

14 (i) Acts upon or interacts with an item of tangible personal
15 property;

16 (ii) Conveys, transports, handles, or temporarily stores an item of
17 tangible personal property at the manufacturing site or testing site;

18 (iii) Controls, guides, measures, verifies, aligns, regulates, or
19 tests tangible personal property at the site or away from the site;

20 (iv) Provides physical support for or access to tangible personal
21 property;

22 (v) Produces power for, or lubricates machinery and equipment;

23 (vi) Produces another item of tangible personal property for use in
24 the manufacturing operation, testing operation, or research and
25 development operation;

26 (vii) Places tangible personal property in the container, package,
27 or wrapping in which the tangible personal property is normally sold or
28 transported; or

29 (viii) Is integral to research and development as defined in RCW
30 82.63.010.

31 (d) "Manufacturer" means a person that qualifies as a manufacturer
32 under RCW 82.04.110. "Manufacturer" also includes a person that prints
33 newspapers or other materials.

34 (e) "Manufacturing" means only those activities that come within
35 the definition of "to manufacture" in RCW 82.04.120 and are taxed as
36 manufacturing or processing for hire under chapter 82.04 RCW, or would
37 be taxed as such if such activity were conducted in this state or if
38 not for an exemption or deduction. "Manufacturing" also includes

1 printing newspapers or other materials. An activity is not taxed as
2 manufacturing or processing for hire under chapter 82.04 RCW if the
3 activity is within the purview of chapter 82.16 RCW.

4 (f) "Manufacturing operation" means the manufacturing of articles,
5 substances, or commodities for sale as tangible personal property. A
6 manufacturing operation begins at the point where the raw materials
7 enter the manufacturing site and ends at the point where the processed
8 material leaves the manufacturing site. With respect to the production
9 of class A or exceptional quality biosolids by a wastewater treatment
10 facility, the manufacturing operation begins at the point where class
11 B biosolids undergo additional processing to achieve class A or
12 exceptional quality standards. Notwithstanding anything to the
13 contrary in this section, the term also includes that portion of a
14 cogeneration project that is used to generate power for consumption
15 within the manufacturing site of which the cogeneration project is an
16 integral part. The term does not include the preparation of food
17 products on the premises of a person selling food products at retail.

18 (g) "Cogeneration" means the simultaneous generation of electrical
19 energy and low-grade heat from the same fuel.

20 (h) "Research and development operation" means engaging in research
21 and development as defined in RCW 82.63.010 by a manufacturer or
22 processor for hire.

23 (i) "Testing" means activities performed to establish or determine
24 the properties, qualities, and limitations of tangible personal
25 property.

26 (j) "Testing operation" means the testing of tangible personal
27 property for a manufacturer or processor for hire. A testing operation
28 begins at the point where the tangible personal property enters the
29 testing site and ends at the point where the tangible personal property
30 leaves the testing site. The term also includes the testing of
31 tangible personal property for use in that portion of a cogeneration
32 project that is used to generate power for consumption within the
33 manufacturing site of which the cogeneration project is an integral
34 part. The term does not include the testing of tangible personal
35 property for use in the production of electricity by a light and power
36 business as defined in RCW 82.16.010 or the preparation of food
37 products on the premises of a person selling food products at retail.

1 **Sec. 2.** RCW 82.12.02565 and 2003 c 5 s 5 are each amended to read
2 as follows:

3 (1) The provisions of this chapter ((shall)) do not apply in
4 respect to the use by a manufacturer or processor for hire of machinery
5 and equipment used directly in a manufacturing operation or research
6 and development operation, to the use by a person engaged in testing
7 for a manufacturer or processor for hire of machinery and equipment
8 used directly in a testing operation, or to the use of labor and
9 services rendered in respect to installing, repairing, cleaning,
10 altering, or improving the machinery and equipment.

11 (2) The purchaser of exempt machinery and equipment must repay all
12 or a portion of the taxes exempted under subsection (1) of this section
13 in accordance with RCW 82.08.02565 if the exempt machinery and
14 equipment is moved to a location out-of-state within ten years of the
15 date of the use of the exempt machinery and equipment. For purposes of
16 this subsection, machinery and equipment is moved to a location outside
17 the state if the machinery and equipment is transported outside the
18 state of Washington and remains outside of this state for more than
19 sixty consecutive days.

20 (3) The definitions in RCW 82.08.02565 apply to this section.

21 NEW SECTION. **Sec. 3.** This act applies to the sale or initial use
22 of machinery and equipment occurring on or after the effective date of
23 this section.

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