
HOUSE BILL 2652

State of Washington

55th Legislature

1998 Regular Session

By Representatives Fisher, Scott, O'Brien, Lantz, Chopp, Costa, Regala, Conway, Gardner and Thompson; by request of Governor Locke

Read first time 01/16/98. Referred to Committee on Finance.

1 AN ACT Relating to providing a tax exemption for the state share of
2 labor and services on state roads and high capacity transportation
3 systems construction; amending RCW 81.104.170 and 82.14.820; reenacting
4 and amending RCW 82.04.190; adding new sections to chapter 82.08 RCW;
5 adding a new section to chapter 82.12 RCW; adding a new section to
6 chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; creating
7 a new section; and providing an effective date.

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

9 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
10 relieve transportation agencies from the burden of the state share of
11 the sales tax related to construction of improvements. Furthermore, in
12 order to maintain the current distribution of tax revenue to the local
13 jurisdictions, the transportation agencies shall continue to pay the
14 local sales tax on the entire construction contract amount, which
15 represents construction services, and includes the value of materials,
16 labor, and services. To achieve this end it is necessary to: (1)
17 Maintain the existing law, which imposes a tax on construction
18 services, but provide an exemption from the state share of this tax;
19 (2) revise existing law so that the contractor is the consumer of

1 materials incorporated into a project. State use tax will be imposed
2 on the contractor as the consumer, but an exemption will be provided
3 for local use tax, as this value is already contained in the total
4 contract amount, and will continue to be taxed at the local level; and
5 (3) exempt the contractor from the sales tax on materials, and impose
6 a use tax, which the contractor will remit and report, therefore
7 relieving the burden on the seller of having to collect and remit two
8 different tax rates.

9 **Sec. 2.** RCW 82.04.190 and 1996 c 173 s 2, 1996 c 148 s 4, and 1996
10 c 112 s 2 are each reenacted and amended to read as follows:

11 "Consumer" means the following:

12 (1) Any person who purchases, acquires, owns, holds, or uses any
13 article of tangible personal property irrespective of the nature of the
14 person's business and including, among others, without limiting the
15 scope hereof, persons who install, repair, clean, alter, improve,
16 construct, or decorate real or personal property of or for consumers
17 other than for the purpose (a) of resale as tangible personal property
18 in the regular course of business or (b) of incorporating such property
19 as an ingredient or component of real or personal property when
20 installing, repairing, cleaning, altering, imprinting, improving,
21 constructing, or decorating such real or personal property of or for
22 consumers or (c) of consuming such property in producing for sale a new
23 article of tangible personal property or a new substance, of which such
24 property becomes an ingredient or component or as a chemical used in
25 processing, when the primary purpose of such chemical is to create a
26 chemical reaction directly through contact with an ingredient of a new
27 article being produced for sale or (d) purchases for the purpose of
28 consuming the property purchased in producing ferrosilicon which is
29 subsequently used in producing magnesium for sale, if the primary
30 purpose of such property is to create a chemical reaction directly
31 through contact with an ingredient of ferrosilicon;

32 (2)(a) Any person engaged in any business activity taxable under
33 RCW 82.04.290; (b) any person who purchases, acquires, or uses any
34 telephone service as defined in RCW 82.04.065, other than for resale in
35 the regular course of business; and (c) any person who purchases,
36 acquires, or uses any amusement and recreation service defined in RCW
37 82.04.050(3)(a), other than for resale in the regular course of
38 business;

1 (3) Any person engaged in the business of contracting for the
2 building, repairing or improving of any street, place, road, highway,
3 easement, right of way, mass public transportation terminal or parking
4 facility, bridge, tunnel, or trestle which is owned by a municipal
5 corporation or political subdivision of the state of Washington or by
6 the United States and which is used or to be used primarily for foot or
7 vehicular traffic including mass transportation vehicles of any kind as
8 defined in RCW 82.04.280, in respect to tangible personal property when
9 such person incorporates such property as an ingredient or component of
10 such publicly owned street, place, road, highway, easement, right of
11 way, mass public transportation terminal or parking facility, bridge,
12 tunnel, or trestle by installing, placing or spreading the property in
13 or upon the right of way of such street, place, road, highway,
14 easement, bridge, tunnel, or trestle or in or upon the site of such
15 mass public transportation terminal or parking facility;

16 (4) Any person who is an owner, lessee or has the right of
17 possession to or an easement in real property which is being
18 constructed, repaired, decorated, improved, or otherwise altered by a
19 person engaged in business, excluding only (a) municipal corporations
20 or political subdivisions of the state in respect to labor and services
21 rendered to their real property which is used or held for public road
22 purposes, and (b) the United States, instrumentalities thereof, and
23 county and city housing authorities created pursuant to chapter 35.82
24 RCW in respect to labor and services rendered to their real property.
25 Nothing contained in this or any other subsection of this definition
26 shall be construed to modify any other definition of "consumer";

27 (5) Any person who is an owner, lessee, or has the right of
28 possession to personal property which is being constructed, repaired,
29 improved, cleaned, imprinted, or otherwise altered by a person engaged
30 in business;

31 (6) Any person engaged in the business of constructing, repairing,
32 decorating, or improving new or existing buildings or other structures
33 under, upon, or above real property of or for the United States, any
34 instrumentality thereof, or a county or city housing authority created
35 pursuant to chapter 35.82 RCW, including the installing or attaching of
36 any article of tangible personal property therein or thereto, whether
37 or not such personal property becomes a part of the realty by virtue of
38 installation; also, any person engaged in the business of clearing land
39 and moving earth of or for the United States, any instrumentality

1 thereof, or a county or city housing authority created pursuant to
2 chapter 35.82 RCW; also any person engaged in the business of clearing
3 land, moving earth, site preparation, constructing, repairing,
4 decorating, renovating, expanding, or improving of any state road or
5 any regional transit authority high capacity transportation system.
6 Any such person shall be a consumer within the meaning of this
7 subsection in respect to tangible personal property incorporated into,
8 installed in, or attached to such building or other structure by such
9 person.

10 As used in this subsection:

11 (a) "State road" means a state highway as defined in RCW 47.04.010.
12 The term includes bridges, tunnels, sidewalks, pedestrian improvements,
13 rest stops, easements, rights of way, state rails, state ferry
14 terminals, and other various transportation structures and improvements
15 within the right of way; and

16 (b) "Regional transportation authority" means an authority as
17 defined in chapter 81.112 RCW;

18 (7) Any person who is a lessor of machinery and equipment, the
19 rental of which is exempt from the tax imposed by RCW 82.08.020 under
20 RCW 82.08.02565, with respect to the sale of or charge made for
21 tangible personal property consumed in respect to repairing the
22 machinery and equipment, if the tangible personal property has a useful
23 life of less than one year; and

24 (8) Any person engaged in the business of cleaning up for the
25 United States, or its instrumentalities, radioactive waste and other
26 byproducts of weapons production and nuclear research and development.

27 Nothing contained in this or any other subsection of this
28 definition shall be construed to modify any other definition of
29 "consumer."

30 NEW SECTION. Sec. 3. A new section is added to chapter 82.08 RCW
31 to read as follows:

32 The tax levied by RCW 82.08.020 does not apply to sales of tangible
33 personal property to persons engaged in the business of clearing land,
34 moving earth, site preparation, constructing, repairing, decorating,
35 renovating, expanding, or improving of any state road or any regional
36 transit authority high capacity transportation system, when such
37 property will be incorporated as an ingredient or component of real or
38 personal property pursuant to such activity. However, use of such

1 property in this state is subject to the tax imposed by chapter 82.12
2 RCW. The exemption under this section is not for tools, machinery,
3 equipment, consumable supplies, and other such items acquired by the
4 person for his or her own use as a consumer, as defined in RCW
5 82.04.190. As used in this section: (1) "State road" means a state
6 highway as defined in RCW 47.04.010. The term includes bridges,
7 tunnels, sidewalks, pedestrian improvements, rest stops, easements,
8 rights of way, state rails, state ferry terminals, and other various
9 transportation structures and improvements within the right of way; and
10 (2) "regional transportation authority" means an authority as defined
11 in chapter 81.112 RCW.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW
13 to read as follows:

14 Tangible personal property exempt from sales tax under section 3 of
15 this act is not exempt from and is subject to the state share of the
16 use tax.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.14 RCW
18 to read as follows:

19 Tangible personal property that is described as subject to the use
20 tax under section 4 of this act is exempt from use tax under this
21 chapter.

22 **Sec. 6.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to read
23 as follows:

24 Cities that operate transit systems, county transportation
25 authorities, metropolitan municipal corporations, public transportation
26 benefit areas, and regional transit authorities may submit an
27 authorizing proposition to the voters and if approved by a majority of
28 persons voting, fix and impose a sales and use tax in accordance with
29 the terms of this chapter, solely for the purpose of providing high
30 capacity transportation service.

31 The tax authorized pursuant to this section shall be in addition to
32 the tax authorized by RCW 82.14.030 and shall be collected from those
33 persons who are taxable by the state pursuant to chapters 82.08 and
34 82.12 RCW upon the occurrence of any taxable event within the taxing
35 district. The maximum rate of such tax shall be approved by the voters
36 and shall not exceed one percent of the selling price (in the case of

1 a sales tax) or value of the article used (in the case of a use tax).
2 The maximum rate of such tax that may be imposed shall not exceed
3 nine-tenths of one percent in any county that imposes a tax under RCW
4 82.14.340, or within a regional transit authority if any county within
5 the authority imposes a tax under RCW 82.14.340. The exemptions in RCW
6 82.08.820 ((and)), 82.12.820, and section 7 of this act, are for the
7 state portion of the sales and use tax and do not extend to the tax
8 authorized in this section.

9 Tangible personal property that is described as subject to the use
10 tax under section 4 of this act is exempt from use tax under this
11 chapter.

12 NEW SECTION. Sec. 7. A new section is added to chapter 82.08 RCW
13 to read as follows:

14 The tax imposed by RCW 82.08.020 does not apply to the sale of or
15 charge made for labor and services rendered in respect to the business
16 of clearing land, moving earth, site preparation, constructing,
17 repairing, decorating, renovating, expanding, or improving of any state
18 road or any regional transit authority high capacity transportation
19 system, when such property will be incorporated as an ingredient or
20 component of real or personal property pursuant to such activity. This
21 exemption from sales tax is limited to the state share of the sales tax
22 and under RCW 82.14.820 and 81.104.170 does not apply to the local
23 sales tax.

24 As used in this section: (1) "State road" means a state highway as
25 defined in RCW 47.04.010. The term includes bridges, tunnels,
26 sidewalks, pedestrian improvements, rest stops, easements, rights of
27 way, state rails, state ferry terminals, and other various
28 transportation structures and improvements within the right of way; and
29 (2) "regional transportation authority" means an authority as defined
30 in chapter 81.112 RCW.

31 **Sec. 8.** RCW 82.14.820 and 1997 c 450 s 4 are each amended to read
32 as follows:

33 The exemptions in RCW 82.08.820 ((and)), 82.12.820, and section 7
34 of this act, are for the state portion of the sales and use tax and do
35 not extend to the tax imposed in this chapter.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 The department may develop and institute a tax reporting method
4 whereby the taxpayer uses deductions, credits, or other accounting
5 techniques, as directed by the department, to allow the department to
6 administer, and the taxpayer to report, tax as affected by chapter
7 . . ., Laws of 1998 (this act) simply and efficiently. Taxpayers and
8 sellers affected by chapter . . ., Laws of 1998 (this act) shall keep
9 their records in a form and manner as directed by the department so
10 that the department can distinguish between taxable and exempt
11 transactions. The department may develop an exemption certificate to
12 be used by the contractor in making sales tax-exempt purchases of
13 materials.

14 NEW SECTION. **Sec. 10.** This act takes effect July 1, 1998.

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