
SENATE BILL 5748

State of Washington

55th Legislature

1997 Regular Session

By Senators West and Spanel; by request of Department of Revenue

Read first time 02/11/97. Referred to Committee on Ways & Means.

1 AN ACT Relating to reducing the penalty for failure to file
2 manufacturing machinery and equipment exemption certificates or annual
3 summaries; amending RCW 82.12.02565; reenacting and amending RCW
4 82.08.02565; and creating a new section.

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

6 **Sec. 1.** RCW 82.08.02565 and 1996 c 247 s 2 and 1996 c 173 s 3 are
7 each reenacted amended to read as follows:

8 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
9 manufacturer or processor for hire of machinery and equipment used
10 directly in a manufacturing operation or research and development
11 operation, or to sales of or charges made for labor and services
12 rendered in respect to installing, repairing, cleaning, altering, or
13 improving the machinery and equipment, but only when the purchaser
14 provides the seller with an exemption certificate in a form and manner
15 prescribed by the department by rule(~~(, and)~~). The purchaser shall be
16 liable for a penalty equal to ten percent of the tax otherwise due
17 under RCW 82.08.020 unless the purchaser provides the department with
18 a duplicate of the certificate or a summary of exempt sales as the

1 department may require. The seller shall retain a copy of the
2 certificate for the seller's files.

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

4 (a) "Machinery and equipment" means industrial fixtures, devices,
5 and support facilities, and tangible personal property that becomes an
6 ingredient or component thereof, including repair parts and replacement
7 parts. "Machinery and equipment" includes pollution control equipment
8 installed and used in a manufacturing operation or research and
9 development operation to prevent air pollution, water pollution, or
10 contamination that might otherwise result from the manufacturing
11 operation or research and development operation.

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

13 (i) Hand tools;

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

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

17 (iv) Building fixtures that are not integral to the manufacturing
18 operation or research and development operation that are permanently
19 affixed to and become a physical part of a building, such as utility
20 systems for heating, ventilation, air conditioning, communications,
21 plumbing, or electrical.

22 (c) Machinery and equipment is "used directly" in a manufacturing
23 operation or research and development operation if the machinery and
24 equipment:

25 (i) Acts upon or interacts with an item of tangible personal
26 property;

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

29 (iii) Controls, guides, measures, verifies, aligns, regulates, or
30 tests tangible personal property;

31 (iv) Provides physical support for or access to tangible personal
32 property;

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

34 (vi) Produces another item of tangible personal property for use in
35 the manufacturing operation or research and development operation;

36 (vii) Places tangible personal property in the container, package,
37 or wrapping in which the tangible personal property is normally sold or
38 transported; or

1 (viii) Is integral to research and development as defined in RCW
2 82.63.010.

3 (d) "Manufacturing operation" means the manufacturing of articles,
4 substances, or commodities for sale as tangible personal property. The
5 manufacturing operation begins at the point where the raw materials
6 enter the manufacturing site and ends at the point where the finished
7 product leaves the manufacturing site. The term also includes that
8 portion of a cogeneration project that is used to generate power for
9 consumption within the manufacturing site of which the cogeneration
10 project is an integral part. The term does not include the production
11 of electricity by a light and power business as defined in RCW
12 82.16.010 or the preparation of food products on the premises of a
13 person selling food products at retail.

14 (e) "Cogeneration" means the simultaneous generation of electrical
15 energy and low-grade heat from the same fuel.

16 (f) "Research and development operation" means engaging in research
17 and development as defined in RCW 82.63.010 by a manufacturer or
18 processor for hire.

19 **Sec. 2.** RCW 82.12.02565 and 1996 c 247 s 3 are each amended to
20 read as follows:

21 The provisions of this chapter shall not apply in respect to the
22 use by a manufacturer or processor for hire of machinery and equipment
23 used directly in a manufacturing operation or research and development
24 operation(~~(, but only when)~~). The user shall be liable for a penalty
25 equal to ten percent of the tax otherwise due under this chapter unless
26 the user provides the department with:

27 (1) An exemption certificate in a form and manner prescribed by the
28 department within sixty days of the first use of the machinery and
29 equipment in this state; or

30 (2) An annual summary listing the machinery and equipment by
31 January 31 of the year following the calendar year in which the
32 machinery and equipment is first used in this state.

33 NEW SECTION. **Sec. 3.** This act applies retroactively from July 1,
34 1995.

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