CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1902

Chapter 332, Laws of 2007

60th Legislature
2007 Regular Session

FARM MACHINERY AND EQUIPMENT--SALES AND USE TAX

EFFECTIVE DATE: 07/22/07

Passed by the House April 20, 2007
Yeas 95  Nays 3

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 20, 2007
Yeas 32  Nays 12

BRAD OWEN
President of the Senate

Approved May 4, 2007, 4:45 p.m.

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED HOUSE BILL 1902 as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER
Chief Clerk

FILED
May 7, 2007

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to the sales and use taxation of repairs to farm machinery and equipment; amending RCW 82.08.855 and 82.12.855; and prescribing penalties.

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

Sec. 1. RCW 82.08.855 and 2006 c 172 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the sale to an eligible farmer of:

(a) Replacement parts for qualifying farm machinery and equipment;
(b) Labor and services rendered in respect to the installing of replacement parts; and
(c) Labor and services rendered in respect to the repairing of qualifying farm machinery and equipment, provided that during the course of repairing no tangible personal property is installed, incorporated, or placed in, or becomes an ingredient or component of, the qualifying farm machinery and equipment other than replacement parts.

(2)(a) Notwithstanding anything to the contrary in this chapter, if replacement parts are installed by the seller during the course of
repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a separate charge for the parts, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to an eligible farmer for replacement parts but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the parts or, if no separately stated retail price is available, the seller's cost for the parts. However, the exemption provided by this section shall not apply if replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a single nonitemized charge for providing the parts and service

(1) a single transaction involves services that are not exempt under this section and services that would be exempt under this section if provided separately, the exemptions provided in subsection (1)(b) and (c) of this section apply if: (i) The seller makes a separately itemized charge for labor and services described in subsection (1)(b) or (c) of this section; and (ii) the separately itemized charge does not exceed the seller's usual and customary charge for such services.

(b) If the requirements in (a)(i) and (ii) of this subsection (2) are met, the exemption provided in subsection (1)(b) or (c) of this section applies to the separately itemized charge for labor and services described in subsection (1)(b) or (c) of this section.

(3)(a) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. An exemption is available only when the buyer provides the seller with an exemption certificate issued by the department containing such information as the department requires. The exemption certificate shall be in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(b) The department shall provide an exemption certificate to an eligible farmer or renew an exemption certificate, upon application by that eligible farmer. The application must be in a form and manner prescribed by the department and shall contain the following information as required by the department:

(i) The name and address of the applicant;
(ii) The uniform business identifier or tax reporting account number of the applicant, if the applicant is required to be registered with the department;

(iii) The type of farming engaged in;

(iv) Either a copy of the applicant's information as provided in (b)(iv)(A) of this subsection or a declaration as provided in (b)(iv)(B) of this subsection, as elected by the applicant:

(A) A copy of the applicant's Schedule F of Form 1040, Form 1120, or other applicable form filed with the internal revenue service indicating the applicant's gross sales or harvested value of agricultural products ((by the applicant in the calendar)) for the tax year ((immediately preceding the year that the application was made to the department)) covered by the return. If ((application is made before the due date of the applicant's)) the applicant has not filed a federal income tax return for the prior ((calendar)) tax year((,) or ((any extension of the due date)) is not required to file a federal income tax return, the applicant shall provide ((a copy of the appropriate federal income tax form that was due for the second calendar year immediately preceding the year that the application is made to the department. If the applicant is not required to file federal income tax returns, the department may require the applicant to provide copies of other documents establishing the amount of the applicant's gross sales of agricultural products for the relevant calendar year)) copies of other documents establishing the amount of the applicant's gross sales or harvested value of agricultural products for the tax year immediately preceding the year in which an application for exemption under this section is submitted to the department;

(B) A declaration signed under penalty of perjury as provided in RCW 9A.72.085 that the applicant is an eligible farmer as defined in subsection (4)(b) of this section. Any person who knowingly makes a materially false statement on an application submitted to the department under the provisions of this section shall be guilty of perjury in the second degree under chapter 9A.72 RCW. In addition, the person is liable for payment of any taxes for which an exemption under this section was claimed, with interest at the rate provided for delinquent taxes, retroactively to the date the exemption was claimed, and penalties as provided under chapter 82.32 RCW;
(v) The name of the individual authorized to sign the certificate, printed in a legible fashion;
(vi) The signature of the authorized individual; and
(vii) Other information the department may require to verify the applicant's eligibility for the exemption.

(c)(i) Except as otherwise provided in this section, exemption certificates take effect on the date issued by the department are not transferable and are valid for the remainder of the calendar year in which the certificate is issued and the following four calendar years. The department shall attempt to notify holders of exemption certificates of the impending expiration of the certificate at least sixty days before the certificate expires and shall provide an application for renewal of the certificate.

(ii) When a certificate holder merely changes identity or form of ownership of an entity and there is no change in beneficial ownership, the exemption certificate shall be transferred to the new entity upon written notice to the department by the transferor or transferee.

(d)(i) (Exemption certificates issued to persons who are eligible farmers under subsection (4)(b)(iii) of this section are conditioned on the person making at least ten thousand dollars of gross sales of agricultural products grown, raised, or produced by that person in the first full calendar year that the person engages in business as a farmer)) A person who is an eligible farmer as defined in subsection (4)(b)(iii) of this section shall be issued a conditional exemption certificate. The exemption certificate is conditioned upon:

(A) The eligible farmer having gross sales or a harvested value of agricultural products grown, raised, or produced by that person of at least ten thousand dollars in the first full tax year in which the person engages in business as a farmer; or

(B) The eligible farmer, during the first full tax year in which that person engages in business as a farmer, growing, raising, or producing agricultural products having an estimated value at any time during that year of at least ten thousand dollars, if the person will not sell or harvest an agricultural product during the first full tax year in which the person engages in business as a farmer.

(ii) ((A person who is issued a conditional exemption certificate must provide the department with a copy of the person's Schedule F of Form 1040, Form 1120, or other applicable form filed with the internal

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revenue service indicating the gross sales of agricultural products by
the person in the first full calendar year that the person engaged in
business as a farmer. If a person is not required to file federal
income tax returns, the person shall provide copies of other documents
establishing the amount of the person's gross sales of agricultural
products for the first full calendar year that the person engaged in
business as a farmer. The documentation required in this subsection
(3)(d)(ii) is due no later than December 31st of the year immediately
following the first full calendar year in which the person engaged in
business as a farmer.

(iii)) If a person fails to ((provide the required documentation
to the department by the due date or any extension granted by the
department, or if)) meet the condition provided in (d)(i)(A) or (B) of
this subsection ((is not met)), the department shall revoke the
exemption certificate. The department shall notify the person in
writing of the revocation and the person's responsibility, and due
date, for ((repayment)) payment of any taxes for which an exemption
under this section was claimed. Any taxes for which an exemption under
this section was claimed shall be due and payable within thirty days of
the date of the notice revoking the certificate. The department shall
assess interest on the taxes for which the exemption was claimed.
Interest shall be assessed at the rate provided for delinquent excise
taxes under chapter 82.32 RCW, retroactively to the date the exemption
was claimed, and shall accrue until the taxes for which the exemption
was claimed are ((repaid)) paid. Penalties shall not be imposed on any
tax required to be ((repaid)) paid under this subsection (3)(d)(ii) if
full payment is received by the due date. Nothing in this subsection
(3)(d) prohibits a person from reapplying for an exemption certificate.

(4) The definitions in this subsection apply to this section.

(a) "Agricultural products" has the meaning provided in RCW
82.04.213.

(b) "Eligible farmer" means:

(i) A farmer as defined in RCW 82.04.213 whose gross ((proceeds
of)) sales or harvested value of agricultural products grown, raised,
or produced by that person is at least ten thousand dollars ((in)) for
the ((calendar)) tax year immediately preceding the year in which ((a
claim of exemption is made under this section)) an application for
exemption under this section is submitted to the department;
(ii) The transferee of an exemption certificate under subsection
(3)(c)(ii) of this section where the transferred certificate expires
before the transferee engages in farming operations for a full
(calendar) tax year, if the combined gross (proceeds of) sales
(by) or harvested value of agricultural products that the transferor
and transferee (of agricultural products that they) have grown,
raised, or produced meet the requirements of (b)(i) of this subsection;
(iii) A farmer as defined in RCW 82.04.213, who does not meet the
definition of "eligible farmer" in (b)(i) or (ii) of this subsection,
and who did not engage in farming for the entire (calendar) tax year
immediately preceding the year in which application for exemption under
this section is (made and who did not engage in farming in any other
year) submitted to the department, because the farmer is either new to
farming or newly returned to farming; or
(iv) Anyone who otherwise meets the definition of "eligible farmer"
in this subsection except that they are not a "person" as defined in
RCW 82.04.030.
(c) "Farm vehicle" has the same meaning as in RCW 46.04.181.
(d) "Harvested value" means the number of units of the agricultural
product that were grown, raised, or produced, multiplied by the average
sales price of the agricultural product. For purposes of this
subsection (4)(d), "average sales price" means the average price per
unit of agricultural product received by farmers in this state as
reported by the United States department of agriculture's national
agricultural statistics service for the twelve-month period that
coincides with, or that ends closest to, the end of the relevant tax
year, regardless of whether the prices are subject to revision. If the
price per unit of an agricultural product received by farmers in this
state is not available from the national agricultural statistics
service, average sales price may be determined by using the average
price per unit of agricultural product received by farmers in this
state as reported by a recognized authority for the agricultural
product.
(e) "Qualifying farm machinery and equipment" means machinery and
equipment used primarily by an eligible farmer for growing, raising, or
producing agricultural products. "Qualifying farm machinery and
equipment" does not include:
(i) Vehicles as (those terms are defined in chapter 46.04 RCW, except) defined in RCW 46.04.670, other than farm tractors as defined in RCW 46.04.180, farm vehicles, and other farm implements. For purposes of this subsection (4)((e-)) (e)(i), "farm implement" means machinery or equipment manufactured, designed, or reconstructed for agricultural purposes and used primarily by an eligible farmer to grow, raise, or produce agricultural products, but does not include lawn tractors and all-terrain vehicles;

(ii) Aircraft;

(iii) Hand tools and hand-powered tools; and

(iv) Property with a useful life of less than one year.

((d-)) (f)(i) "Replacement parts" means those parts that replace an existing part, or which are essential to maintain the working condition, of a piece of qualifying farm machinery or equipment. ((However, "replacement parts" shall not include paint, fuel, oil, grease, hydraulic fluids, antifreeze, and similar items))

(ii) Paint, fuel, oil, hydraulic fluids, antifreeze, and similar items are not replacement parts except when installed, incorporated, or placed in qualifying farm machinery and equipment during the course of installing replacement parts as defined in (f)(i) of this subsection or making repairs as described in subsection (1)(c) of this section.

(g) "Tax year" means the period for which a person files its federal income tax return, irrespective of whether the period represents a calendar year, fiscal year, or some other consecutive twelve-month period. If a person is not required to file a federal income tax return, "tax year" means a calendar year.

Sec. 2. RCW 82.12.855 and 2006 c 172 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use by an eligible farmer of:

(a) Replacement parts for qualifying farm machinery and equipment;

(b) Labor and services rendered in respect to the installing of replacement parts; and

(c) Labor and services rendered in respect to the repairing of qualifying farm machinery and equipment, provided that during the
course of repairing no tangible personal property is installed, 
corporated, or placed in, or becomes a component of, the qualifying 
farm machinery and equipment other than replacement parts.

(2)(a) Notwithstanding anything to the contrary in this chapter, if 
((replacement parts are installed by the seller during the course of 
repairing, cleaning, altering, or improving qualifying farm machinery 
and equipment and the seller makes a separate charge for the parts, the 
tax imposed by this chapter does not apply to the separately stated 
charge to an eligible farmer for replacement parts but only if the 
separately stated charge does not exceed either the seller's current 
publicly stated retail price for the parts or, if no separately stated 
retail price is available, the seller's cost for the parts. However, 
the exemption provided by this section shall not apply if replacement 
parts are installed by the seller during the course of repairing, 
cleaning, altering, or improving qualifying farm machinery and 
equipment and the seller makes a single nonitemized charge for 
(providing the parts and service)) a single transaction involves 
services that are not exempt under this section and services that would 
be exempt under this section if provided separately, the exemptions 
provided in subsection (1)(b) and (c) of this section apply if: (i) 
The seller makes a separately itemized charge for labor and services 
described in subsection (1)(b) or (c) of this section; and (ii) the 
separately itemized charge does not exceed the seller's usual and 
customary charge for such services.

(b) If the requirements in (a)(i) and (ii) of this subsection (2) 
are met, the exemption provided in subsection (1)(b) or (c) of this 
section applies to the separately itemized charge for labor and 
services described in subsection (1)(b) or (c) of this section.

(3) The definitions and recordkeeping requirements in RCW 
82.08.855, other than the exemption certificate requirement, apply to 
this section.

(4) If a person is an eligible farmer as defined in RCW 
82.08.855(4)(b)(iii) who cannot prove income because the person is new 
to farming or newly returned to farming, the exemption under this 
section will apply only if one of the conditions in RCW 
82.08.855(3)(d)(i)(A) or (B) is met. If the conditions are not met, 
any taxes for which an exemption under this section was claimed and 
interest on such taxes must be paid. Amounts due under this subsection
shall be in accordance with RCW 82.08.855(3)(d)(ii), except that the
due date for payment is January 31st of the year immediately following
the first full tax year in which the person engaged in business as a
farmer.

(5) Except as provided in subsection (4) of this section, the
department shall not assess the tax imposed under this chapter against
a person who no longer qualifies as an eligible farmer with respect to
the use of any articles or services exempt under subsection (1) of this
section, if the person was an eligible farmer when the person first put
the articles or services to use in this state.

Passed by the House April 20, 2007.
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