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HOUSE BILL 2278

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State of Washington

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2012 Regular Session

By Representatives Moeller, Pettigrew, Hasegawa, Fitzgibbon, Pollet, Tharinger, Moscoso, and Santos

Read first time 01/11/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to annual accountability surveys for the  
2 warehousing and distribution center sales and use tax exemption;  
3 amending RCW 82.08.820 and 82.12.820; creating a new section; and  
4 providing an effective date.

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

6 **Sec. 1.** RCW 82.08.820 and 2011 c 174 s 206 are each amended to  
7 read as follows:

8 (1) Wholesalers or third-party warehouseurs who own or operate  
9 warehouses or grain elevators and retailers who own or operate  
10 distribution centers, and who have paid the tax levied by RCW 82.08.020  
11 on:

12 (a) Material-handling and racking equipment, and labor and services  
13 rendered in respect to installing, repairing, cleaning, altering, or  
14 improving the equipment; or

15 (b) Construction of a warehouse or grain elevator, including  
16 materials, and including service and labor costs,  
17 are eligible for an exemption in the form of a remittance. The amount  
18 of the remittance is computed under subsection (~~(+3)~~) (4) of this  
19 section and is based on the state share of sales tax.

1       (2) A person claiming the exemption from state tax under this  
2 section or RCW 82.12.820 must file a complete annual survey with the  
3 department under RCW 82.32.585. Notwithstanding RCW  
4 82.32.585(1)(a)(i), a survey due under this section in 2012 must be  
5 submitted by October 31st.

6       (3) For purposes of this section and RCW 82.12.820:

7       (a) "Agricultural products" has the meaning given in RCW 82.04.213;

8       (b) "Construction" means the actual construction of a warehouse or  
9 grain elevator that did not exist before the construction began.  
10 "Construction" includes expansion if the expansion adds at least two  
11 hundred thousand square feet of additional space to an existing  
12 warehouse or additional storage capacity of at least one million  
13 bushels to an existing grain elevator. "Construction" does not include  
14 renovation, remodeling, or repair;

15       (c) "Department" means the department of revenue;

16       (d) "Distribution center" means a warehouse that is used  
17 exclusively by a retailer solely for the storage and distribution of  
18 finished goods to retail outlets of the retailer. "Distribution  
19 center" does not include a warehouse at which retail sales occur;

20       (e) "Finished goods" means tangible personal property intended for  
21 sale by a retailer or wholesaler. "Finished goods" does not include  
22 agricultural products stored by wholesalers, third-party warehouses, or  
23 retailers if the storage takes place on the land of the person who  
24 produced the agricultural product. "Finished goods" does not include  
25 logs, minerals, petroleum, gas, or other extracted products stored as  
26 raw materials or in bulk;

27       (f) "Grain elevator" means a structure used for storage and  
28 handling of grain in bulk;

29       (g) "Material-handling equipment and racking equipment" means  
30 equipment in a warehouse or grain elevator that is primarily used to  
31 handle, store, organize, convey, package, or repackage finished goods.  
32 The term includes tangible personal property with a useful life of one  
33 year or more that becomes an ingredient or component of the equipment,  
34 including repair and replacement parts. The term does not include  
35 equipment in offices, lunchrooms, restrooms, and other like space,  
36 within a warehouse or grain elevator, or equipment used for  
37 nonwarehousing purposes. "Material-handling equipment" includes but is  
38 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-

1 place units, cranes, hoists, mechanical arms, and robots; mechanized  
2 systems, including containers that are an integral part of the system,  
3 whose purpose is to lift or move tangible personal property; and  
4 automated handling, storage, and retrieval systems, including computers  
5 that control them, whose purpose is to lift or move tangible personal  
6 property; and forklifts and other off-the-road vehicles that are used  
7 to lift or move tangible personal property and that cannot be operated  
8 legally on roads and streets. "Racking equipment" includes, but is not  
9 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
10 pallets, and other containers and storage devices that form a necessary  
11 part of the storage system;

12 (h) "Person" has the meaning given in RCW 82.04.030;

13 (i) "Retailer" means a person who makes "sales at retail" as  
14 defined in chapter 82.04 RCW of tangible personal property;

15 (j) "Square footage" means the product of the two horizontal  
16 dimensions of each floor of a specific warehouse. The entire footprint  
17 of the warehouse (~~shall~~) must be measured in calculating the square  
18 footage, including space that juts out from the building profile such  
19 as loading docks. "Square footage" does not mean the aggregate of the  
20 square footage of more than one warehouse at a location or the  
21 aggregate of the square footage of warehouses at more than one  
22 location;

23 (k) "Third-party warehouse" means a person taxable under RCW  
24 82.04.280(1)(d);

25 (l) "Warehouse" means an enclosed building or structure in which  
26 finished goods are stored. A warehouse building or structure may have  
27 more than one storage room and more than one floor. Office space,  
28 lunchrooms, restrooms, and other space within the warehouse and  
29 necessary for the operation of the warehouse are considered part of the  
30 warehouse as are loading docks and other such space attached to the  
31 building and used for handling of finished goods. Landscaping and  
32 parking lots are not considered part of the warehouse. A storage yard  
33 is not a warehouse, nor is a building in which manufacturing takes  
34 place; and

35 (m) "Wholesaler" means a person who makes "sales at wholesale" as  
36 defined in chapter 82.04 RCW of tangible personal property, but  
37 "wholesaler" does not include a person who makes sales exempt under RCW  
38 82.04.330.

1           ((+3+)) (4)(a) A person claiming an exemption from state tax in the  
2 form of a remittance under this section must pay the tax imposed by RCW  
3 82.08.020. The buyer may then apply to the department for remittance  
4 of all or part of the tax paid under RCW 82.08.020. For grain  
5 elevators with bushel capacity of one million but less than two  
6 million, the remittance is equal to fifty percent of the amount of tax  
7 paid. For warehouses with square footage of two hundred thousand or  
8 more and for grain elevators with bushel capacity of two million or  
9 more, the remittance is equal to one hundred percent of the amount of  
10 tax paid for qualifying construction, materials, service, and labor,  
11 and fifty percent of the amount of tax paid for qualifying material-  
12 handling equipment and racking equipment, and labor and services  
13 rendered in respect to installing, repairing, cleaning, altering, or  
14 improving the equipment.

15           (b) The department (~~shall~~) must determine eligibility under this  
16 section based on information provided by the buyer and through audit  
17 and other administrative records. The buyer (~~shall~~) must on a  
18 quarterly basis submit an information sheet, in a form and manner as  
19 required by the department by rule, specifying the amount of exempted  
20 tax claimed and the qualifying purchases or acquisitions for which the  
21 exemption is claimed. The buyer shall retain, in adequate detail to  
22 enable the department to determine whether the equipment or  
23 construction meets the criteria under this section: Invoices; proof of  
24 tax paid; documents describing the material-handling equipment and  
25 racking equipment; location and size of warehouses and grain elevators;  
26 and construction invoices and documents.

27           (c) The department (~~shall~~) must on a quarterly basis remit  
28 exempted amounts to qualifying persons who submitted applications  
29 during the previous quarter.

30           ((+4+)) (5) Warehouses, grain elevators, and material-handling  
31 equipment and racking equipment for which an exemption, credit, or  
32 deferral has been or is being received under chapter 82.60, 82.62, or  
33 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
34 remittance under this section. Warehouses and grain elevators upon  
35 which construction was initiated before May 20, 1997, are not eligible  
36 for a remittance under this section.

37           ((+5+)) (6) The lessor or owner of a warehouse or grain elevator is  
38 not eligible for a remittance under this section unless the underlying

1 ownership of the warehouse or grain elevator and the material-handling  
2 equipment and racking equipment vests exclusively in the same person,  
3 or unless the lessor by written contract agrees to pass the economic  
4 benefit of the remittance to the lessee in the form of reduced rent  
5 payments.

6 **Sec. 2.** RCW 82.12.820 and 2006 c 354 s 13 are each amended to read  
7 as follows:

8 (1) Wholesalers or third-party warehouse owners who own or operate  
9 warehouses or grain elevators, and retailers who own or operate  
10 distribution centers, and who have paid the tax levied under RCW  
11 82.12.020 on:

12 (a) Material-handling equipment and racking equipment and labor and  
13 services rendered in respect to installing, repairing, cleaning,  
14 altering, or improving the equipment; or

15 (b) Materials incorporated in the construction of a warehouse or  
16 grain elevator, are eligible for an exemption on tax paid in the form  
17 of a remittance or credit against tax owed. The amount of the  
18 remittance or credit is computed under subsection ~~((+2))~~ (3) of this  
19 section and is based on the state share of use tax.

20 (2) A person claiming the exemption from state tax as provided  
21 under this section must file a complete annual survey with the  
22 department as required under RCW 82.08.820.

23 (3)(a) A person claiming an exemption from state tax in the form of  
24 a remittance under this section must pay the tax imposed by RCW  
25 82.12.020 to the department. The person may then apply to the  
26 department for remittance of all or part of the tax paid under RCW  
27 82.12.020. For grain elevators with bushel capacity of one million but  
28 less than two million, the remittance is equal to fifty percent of the  
29 amount of tax paid. For warehouses with square footage of two hundred  
30 thousand or more and for grain elevators with bushel capacity of two  
31 million or more, the remittance is equal to one hundred percent of the  
32 amount of tax paid for qualifying construction materials, and fifty  
33 percent of the amount of tax paid for qualifying material-handling  
34 equipment and racking equipment.

35 (b) The department shall determine eligibility under this section  
36 based on information provided by the buyer and through audit and other  
37 administrative records. The buyer shall on a quarterly basis submit an

1 information sheet, in a form and manner as required by the department  
2 by rule, specifying the amount of exempted tax claimed and the  
3 qualifying purchases or acquisitions for which the exemption is  
4 claimed. The buyer shall retain, in adequate detail to enable the  
5 department to determine whether the equipment or construction meets the  
6 criteria under this section: Invoices; proof of tax paid; documents  
7 describing the material-handling equipment and racking equipment;  
8 location and size of warehouses, if applicable; and construction  
9 invoices and documents.

10 (c) The department shall on a quarterly basis remit or credit  
11 exempted amounts to qualifying persons who submitted applications  
12 during the previous quarter.

13 ~~((+3))~~ (4) Warehouse, grain elevators, and material-handling  
14 equipment and racking equipment for which an exemption, credit, or  
15 deferral has been or is being received under chapter 82.60, 82.62, or  
16 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
17 remittance under this section. Materials incorporated in warehouses  
18 and grain elevators upon which construction was initiated prior to May  
19 20, 1997, are not eligible for a remittance under this section.

20 ~~((+4))~~ (5) The lessor or owner of the warehouse or grain elevator  
21 is not eligible for a remittance or credit under this section unless  
22 the underlying ownership of the warehouse or grain elevator and  
23 material-handling equipment and racking equipment vests exclusively in  
24 the same person, or unless the lessor by written contract agrees to  
25 pass the economic benefit of the exemption to the lessee in the form of  
26 reduced rent payments.

27 ~~((+5))~~ (6) The definitions in RCW 82.08.820 apply to this section.

28 NEW SECTION. **Sec. 3.** This act applies to annual surveys due in  
29 2012 and thereafter.

30 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2012.

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