

SHB 1865 - H AMD 279

By Representative Kilmer

ADOPTED 03/11/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
4 to read as follows:

5 (1) The tax levied by RCW 82.08.020 does not apply to:

6 (a) Charges made for labor and services rendered by any person in
7 respect to the building of any street, place, road, highway, easement,
8 right of way, bridge, tunnel, or trestle which is owned by the state or
9 by the United States and which is used or to be used primarily for foot
10 or vehicular traffic; or

11 (b) Sales of tangible personal property that becomes an ingredient
12 or component of the street, place, road, highway, easement, right of
13 way, bridge, tunnel, or trestle which is owned by the state or by the
14 United States and which is used or to be used primarily for foot or
15 vehicular traffic during the course of the building of such street,
16 place, road, highway, easement, right of way, bridge, tunnel, or
17 trestle.

18 (2) The exemption provided by this section does not apply:

19 (a) To any project for which a sales and use tax deferral
20 certificate has been issued by the department under RCW 47.46.060; and

21 (b) Unless at least eighty percent of the cost of the project will
22 be recovered through tolls or other direct user fees.

23 (3) The buyer must provide the seller with an exemption certificate
24 in a form and manner prescribed by the department. The seller shall
25 retain a copy of the certificate for the seller's files.

26 (4) For the purposes of this section, "direct user fee" means a fee
27 charged for the specific use of the facility.

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW
29 to read as follows:

1 (1) The provisions of this chapter do not apply with respect to the
2 use of tangible personal property that becomes an ingredient or
3 component of any street, place, road, highway, easement, right of way,
4 bridge, tunnel, or trestle which is owned by the state or by the United
5 States and which is used or to be used primarily for foot or vehicular
6 traffic during the course of building.

7 (2) The eligibility requirements, conditions, and definitions in
8 section 1 of this act apply to this section.

9 **Sec. 3.** RCW 47.46.060 and 2002 c 114 s 18 are each amended to read
10 as follows:

11 (1) Any person, including the department of transportation and any
12 private entity or entities, may apply for deferral of taxes on the site
13 preparation for, the construction of, the acquisition of any related
14 machinery and equipment which will become a part of, and the rental of
15 equipment for use in the state route number 16 corridor improvements
16 project under this chapter. Application shall be made to the
17 department of revenue in a form and manner prescribed by the department
18 of revenue. The application shall contain information regarding
19 estimated or actual costs, time schedules for completion and operation,
20 and other information required by the department of revenue. The
21 department of revenue shall approve the application within sixty days
22 if it meets the requirements of this section.

23 (2) The department of revenue shall issue a sales and use tax
24 deferral certificate for state and local sales and use taxes due under
25 chapters 82.08, 82.12, and 82.14 RCW on the project.

26 (3) The department of transportation or a private entity granted a
27 tax deferral under this section shall begin paying the deferred taxes
28 in the fifth year after the date certified by the department of revenue
29 as the date on which the project is operationally complete. The first
30 payment is due on December 31st of the fifth calendar year after such
31 certified date, with subsequent annual payments due on December 31st of
32 the following nine years. Each payment shall equal ten percent of the
33 deferred tax. The project is operationally complete under this section
34 when the collection of tolls is commenced for the state route number 16
35 improvements covered by the deferral.

36 (4) The department of revenue may authorize an accelerated

1 repayment schedule upon request of the department of transportation or
2 a private entity granted a deferral under this section.

3 (5) Interest shall not be charged on any taxes deferred under this
4 section for the period of deferral, although all other penalties and
5 interest applicable to delinquent excise taxes may be assessed and
6 imposed for delinquent payments under this section. The debt for
7 deferred taxes is not extinguished by insolvency or other failure of
8 the private entity. Transfer of ownership does not terminate the
9 deferral.

10 (6) Applications and any other information received by the
11 department of revenue under this section are not confidential and are
12 subject to disclosure. Chapter 82.32 RCW applies to the administration
13 of this section.

14 (7) Taxes due under chapters 82.08 and 82.12 RCW on the site
15 preparation for, the construction of, the acquisition of any related
16 machinery and equipment that will become a part of, and the rental of
17 equipment for use in the state route number 16 corridor improvements
18 for which a deferral has been granted need not be repaid."

EFFECT: Clarifies the sales and use tax exemption applies to the
construction expenditures only and does not include repairs or
maintenance.

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